



## **MEETING AGENDA- ZIONSVILLE BOARD OF ZONING APPEALS NOVEMBER 12, 2019**

The meeting of the Zionsville Board of Zoning Appeals has been scheduled for Tuesday, November 12, 2019 at 6:30 p.m. in the Zionsville Town Hall Council Chamber, 1100 West Oak Street, Zionsville, Indiana.

The following items are scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance
- III. Approval of the October 8, 2019 Meeting Minutes
- IV. Continuance Requests
- V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2019-28-DSV	The Georgian Group	240 N Main Street	<b>Continued by petitioner from October 8, 2019 to the November 12, 2019 Meeting</b> Petition for Development Standards variance in order to provide for the construction of a Single-Family Home & accessory uses which: 1) Deviates from the required side & aggregate yard setbacks and 2) Exceeds the required lot coverage of 35%, to 48% in the Urban Residential Village Zoning District (R-V).

### VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2019-31-DSV	A. Busse	3402 S US 421	Petition for Development Standards variance in order to provide for two (2) Primary Structures to exist within the same parcel, in both the Rural Low Density Single Family and Two-Family Residential (R2) and Rural Michigan Road Overlay Zoning Districts (MRO).
2019-32-DSV	C. Longenberger	8250 E 100 South	Petition for Development Standards variance in order to provide for the construction of an accessory structure which: 1) Exceeds the allowable accessory square footage in the Low-Density Single-Family Residential Zoning District (R1).

2019-33-UV	Zionsville MOB Investors LLC	10601 Bennett Parkway	Petition for a Use Variance to provide for the construction and operation of a Clinic as a Primary Use (not a permitted Primary Use) in the Urban Heavy Industrial Zoning District (I-3).
2019-34-SE	Zionsville MOB Investors LLC	10601 Bennett Parkway	Petition for Special Exception to provide for the construction and operation of offices as a Primary Use (only permitted as a Primary Use by Special Exception) in the Urban Heavy Industrial Zoning District (I-3).
2019-35-DSV	Zionsville MOB Investors LLC	10601 Bennett Parkway	Petition for Development Standards Variance to provide for the construction of a new commercial building which: 1) Deviates from the required (southern) front yard setback in the Urban Heavy Industrial Zoning District (I-3).
2019-36-DSV	T. Dugan	40 N 4th Street	Petition for Development Standards variance in order to provide for the addition of a portico to a single-family dwelling which: 1) Deviates from the required front yard setback (portico) 2) Deviates from the required side yard setback (home) in the Urban Residential Village Zoning District (R-V).

VII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
			Approved September 5, 2019 Meeting Minutes
2018-19-DSV	Wildwood Designs	2720 S 875 East	Status of Commitments
2017-11-DSV	Fischer Homes	Ansley Park	Status of Amended Plat

Upon request, the Town of Zionsville will provide auxiliary aids and services. Please provide advance notification to the Technology Department, [assistance@zionsville-in.gov](mailto:assistance@zionsville-in.gov) or 317-873-1577, to ensure the proper accommodations are made prior to the meeting.

Please note that a quorum of the Zionsville Town Council may be in attendance at the meeting.

Respectfully Submitted:

Wayne DeLong AICP, CPM  
Town of Zionsville  
Director of Planning and Economic Development



**Petition Number:** 2019-28-DSV

**Subject Site Address:** 240 N Main Street

**Petitioner:** The Georgian Group

**Representative:** Kerry Wagoner

**Request:** Petition for Development Standards variance in order to provide for the construction of a Single-Family Home & accessory uses which:  
1) Deviates from the required side & aggregate yard setbacks  
2) Exceeds the required lot coverage of 35%, to 48%  
in the Urban Residential Village Zoning District (R-V).

**Current Zoning:** Residential Village Zoning District (RV)

**Current Land Use:** Single-family Residential

**Approximate Acreage:** 0.1148 acres

**Zoning History:** No prior petitions are known.

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Petitioners Cover Letter  
Exhibit 4 – Petitioners Existing Site Plan  
Exhibit 5 – Petitioners Proposed Site Plan  
Exhibit 6 – Petitioners Exhibits  
Exhibit 7 – Petitioners proposed Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM

### **PETITION HISTORY**

This petition received an initial public hearing at the October 8, 2019 Board of Zoning Appeals meeting. At the meeting, Interested Parties presented concerns regarding potential negative impacts to the area which, per Interested Parties, have the potential to occur as a result of the granting of the variance(s). At the meeting, the Petitioner requested a continuance to the November 12, 2019 meeting of the Board of Zoning Appeals to allow the Petitioner additional time to meet with Interested Parties regarding the petition. As of this writing and per submittal file dated November 6, 2019 available to the Board of Zoning Appeals, the Petitioner has been in communication with Interested Parties regarding the petition, and intends to request consideration, at the November 12, 2019 meeting, of an amendment to the original variance request.

### **PROPERTY HISTORY**

The property is comprised of approximately 0.1148 acres of Lot 36 in Oliver's Addition to the Town of Zionsville. Staff is not aware of any prior variance requests for this property.

### **ANALYSIS**

The 0.1148-acre parcel is currently improved with a circa 1915 single-family dwelling (Rating: Non-Contributing per Indiana Department of Natural Resources Interim Study) and detached accessory structure which will be demolished in order to build a new two-story single-family dwelling, detached garage and additional attached covered accessory square footage.

### **LOT COVERAGE**

The request seeks to exceed the 35 percent lot coverage maximum by 13 percent (of which 2 percent is permissible by right when using pervious material). Per the Residential Village District (RV) regulations, lot coverage standards state the maximum lot coverage is 37 percent (inclusive of the 2 percent bonus for pervious material use). In this specific case the petitioner is not anticipating any of the lot coverage being pervious material.

While the current Zoning Ordinance requires such restrictions, the overall area developed prior to the adoption of the current Ordinance standards, and review of parcels and improvements in the area did reveal that some parcels in the area (to the north, east, and south) enjoy deviations from current coverage standards. The Petitioner is requesting a design standards variance to this requirement for the construction of an approximately 4,100 square feet single-family dwelling with a total footprint of 2,400 (inclusive of the home, detached garage with upper living space, and front porch), which would result in lot coverage of 48%.

The request to occupy the site with improvements associated with a single-family home in excess of lot coverage requirements in the Residential Village District (RV) is not uncommon. Staff supports requests which provide for deviations from the lot coverage requirements when the request, generally speaking, follows this general reasoning: 1) the request is seeking to improve the site with a use commonly enjoyed by other properties in the area and / or 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements (to the north, east, and south). However, a requested deviation of 13 percent from the Ordinance requirement is atypical when the proposed improvements do not include any pervious materials/areas.

Based on Staff's review, single-family dwellings located within this block of North Main Street reach a lot coverage ratio of 47 percent though only 43.9 percent of that lot is non-pervious coverage. However, the average lot coverage located within the block, if deviations were found, did not exceed 45.5 percent in lot coverage. Staff noted that the majority of lots in this block averaged 50 feet in width and 100 feet in depth.

While other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements, based on Staff's review of adjoining residential streets, 45.5 percent lot coverage appears to be the maximum established lot coverage (not considering improvements established with non-pervious materials). Staff is cognizant that the property is currently improved with two walkways and cellar doors that create an additional 320 square feet of hard surfaced area (approximately), and results in a total lot coverage of 39 percent (when including the existing walkways and cellar doors as part of the overall lot coverage). While some deviation from Ordinance standards may be warranted related to development of this property, staff could not be supportable of a deviation of this magnitude. However, Staff is supportive of 45.5 percent lot coverage for this parcel.

#### **SETBACKS (SIDE YARDS)**

Per the RV Residential Village District regulations, any improvements to the site are required to conform to minimum setback standards (side yard minimum: 5 feet with 15-foot aggregate, rear yard minimum, 5 feet). As the site currently enjoys a non-conforming 2-foot rear yard setback from North First Street (considered a Front Yard) for the existing detached garage and non-conforming 10-foot 6-inch aggregate side yard setbacks, Staff is supportive of the proposed conforming 5-foot rear yard (front yard resulting from North First Street) setback and the utilization of a 13-foot 6-inch aggregate side yard setback as illustrated on the Petitioner's site plan attached to this staff report. It should be noted that the proposed 5-foot rear yard (front yard resulting from North First Street) setback lessens the 2-foot setback of the noncompliant existing detached garage and the proposed 13-foot 6-inch aggregate side yard setback lessens the existing 10-foot 6-inch exiting aggregate side yards' setback. Additionally, the scale and placement of the contemplated improvements are not, in Staff's opinion, out of character for the immediate area.

#### **SETBACKS (REAR YARD/FIRST STREET)**

Per the RV Residential Village District regulations, any improvements to the site are required to conform to minimum setback standards (rear yard minimum, 20 feet). However, as First Street is considered a Front Yard, the petition can benefit from front yard setback averaging as well to calculate the setback from First Street given the reduced setbacks along the east side of First Street supporting accessory structures.

#### **PROCEDURAL – VARIANCE TO DEVIATE FROM STANDARDS**

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;*

*(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

*(c) the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

#### **STAFF RECOMMENDATIONS**

Staff recommends approval of the design standards variance for the +/-13-foot 6-inch aggregate side yard setback, subject to substantial compliance with the submitted concept elevations and concept site plan, and would be supportable of a lot coverage increase of up to 45.5 percent in Docket #2019-28-DSV.

#### **RECOMMENDATION MOTION**

I move that Docket #2019-28-DSV design standards variance in order to provide for the construction of a Single-Family Home and accessory uses, which: 1) Exceeds the required lot coverage of 35 percent, and 2) Deviates from the required side & aggregate yard setbacks (all as illustrated on the site plan attached to this report), in the Residential Village Zoning District (RV) for the property located at 240 N Main Street be (Approved as filed at 48 percent lot coverage, based upon the findings of fact and substantial compliance with the submitted site plan and concept elevations / Approved as recommended, at 45.5 percent lot coverage, based upon the findings of fact and substantial compliance with the submitted site plan and conceptual elevation / Denied/ Continued).





Exhibit 2





## NAZARETH Building Services

The Georgian Group LLC

Kerry & Pam Wagoner

11465 Sycamore Street

Zionsville, IN. 46077

Re: 240 North Main Street Re-Construction,

To: The Village Neighbors,

It is with great respect and honor that this letter is being written to the neighbors surrounding 240 North Main Street in the village of Zionsville. My wife Pam and I have been apart of the Zionsville Community for over 30 years. We both have worked as small business owners within the Zionsville community as well as had the privilege to have our four children graduated from Zionsville High School.

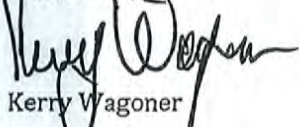
Twelve years ago, The Georgian Group LLC, which is a property management company of which Pam and myself own, purchased this property for investment and have since been leasing this property.

In July of this year and after much consideration, we believe it is in the best interest of the property that a complete re-construction of the property be completed so as to be in good standing with the surrounding properties and their associated values. Deteriorating problems with the existing brick foundations and block cellar walls have been a determining factor in the taking this step of re-construction.

In evaluating the best solution for this re-construction, we considered that the best alternative was to construct a house that was of equal size and value to the surrounding neighbors. We believe this will bring better resale values to all and stronger tax base to the community.


We have enclosed a copy of the preliminary construction drawings for your review. We hope that our future vision for this property will be considered by you as an enhancement to the community and beneficial to everyone.

Thank You,



Kerry Wagoner

Nazareth Building Services



Pam Wagoner

Salon Designs At Nazareth House

317.873.0454 office  
317.557.5574 cell

P.O. Box 641  
Zionsville, IN 46077

Exhibit 3



# SURVEYOR LOCATION REPORT

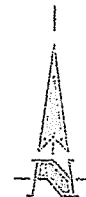
I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT. Unless otherwise noted there is no visible evidence of possession lines found.

## Notes:

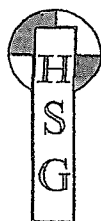
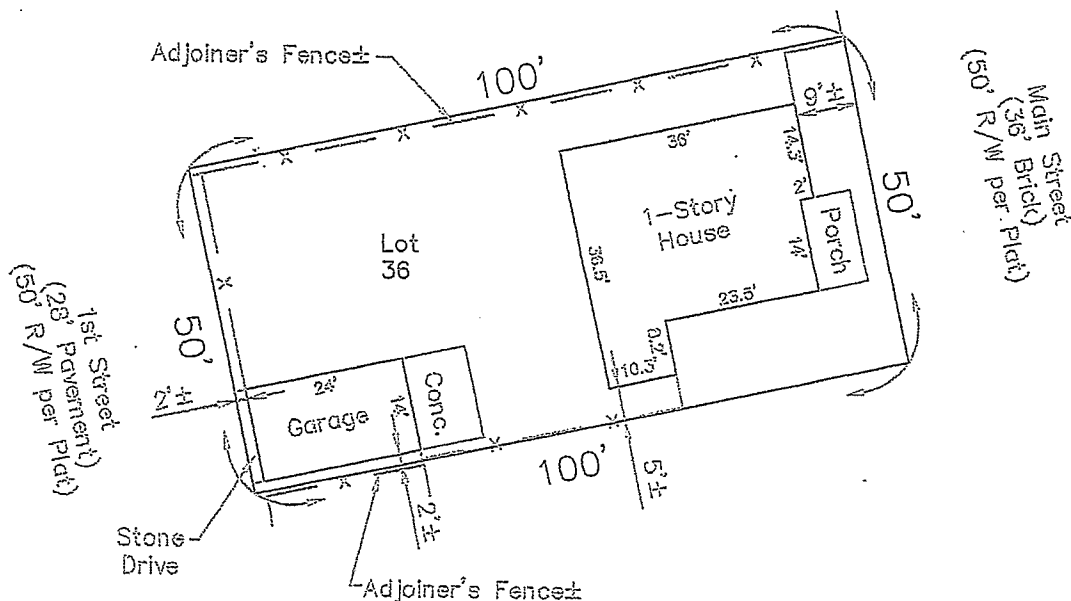
- 1.) Fence locations shown are approximate. An accurate boundary survey is required to determine exact locations.
- 2.) Adjoiner's fence apparently 1'± past lot line as shown.

## Legend

— x — Fence±



Scale: 1"=30'



**HAHN SURVEYING GROUP, INC.**

Surveyors & Engineers

2850 E. 96th St., Indianapolis, IN 46240

PHONE: (317) 846-0840 or (317) 846-4119

FAX: (317) 846-4298 or (317) 582-9662

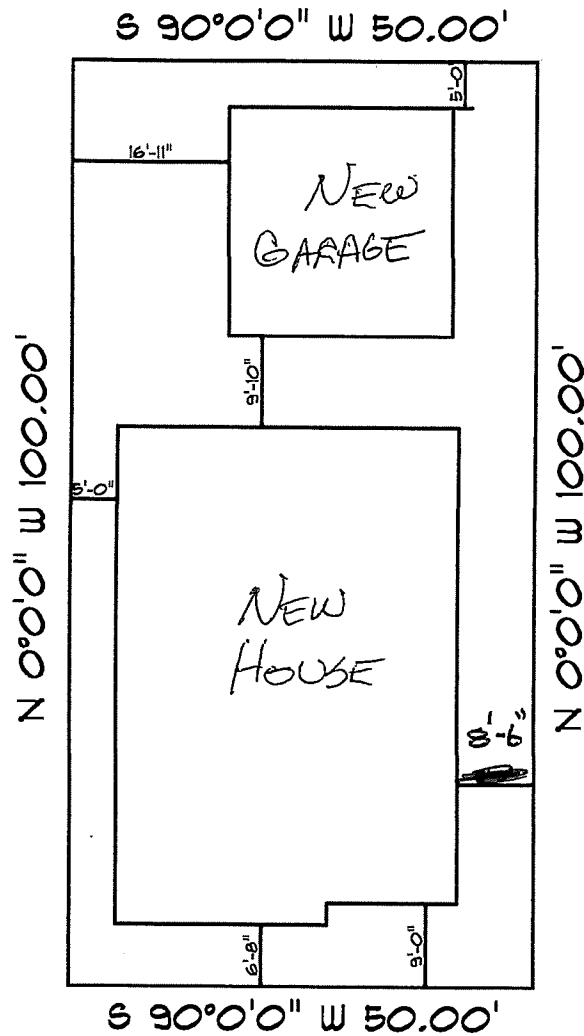


CERTIFIED: July 29, 2008

*Chad D. Hahn*

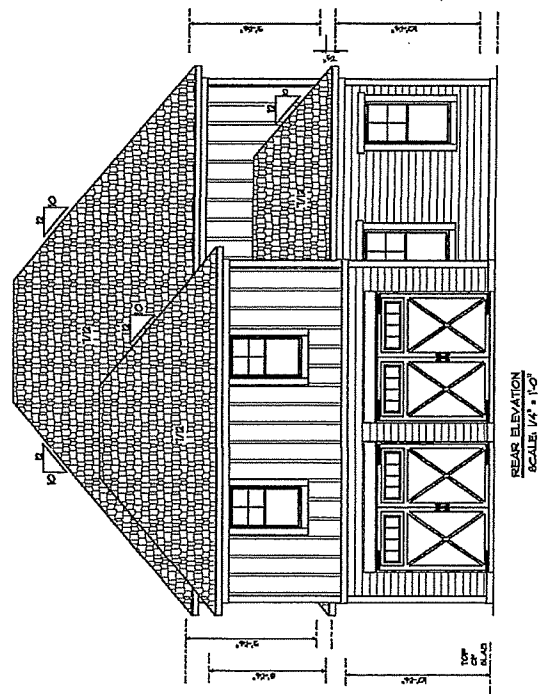
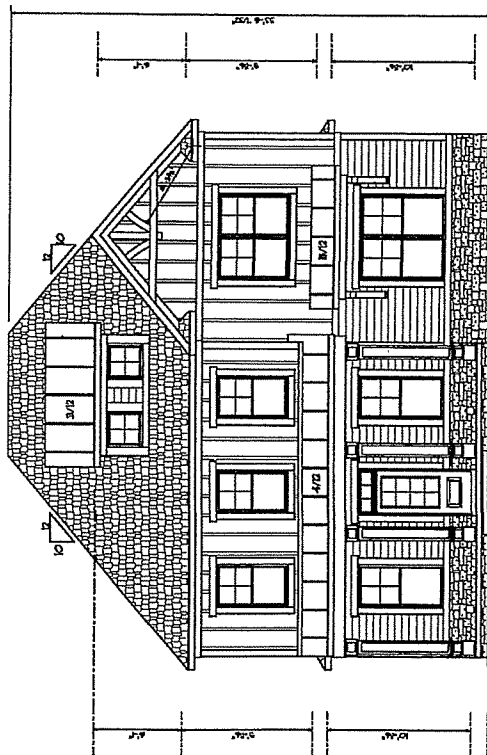
Chad D. Hahn  
Registered Land Surveyor,  
Indiana #20300031  
Job No.: 2008071519  
Sheet 2 of 2

PROPOSED

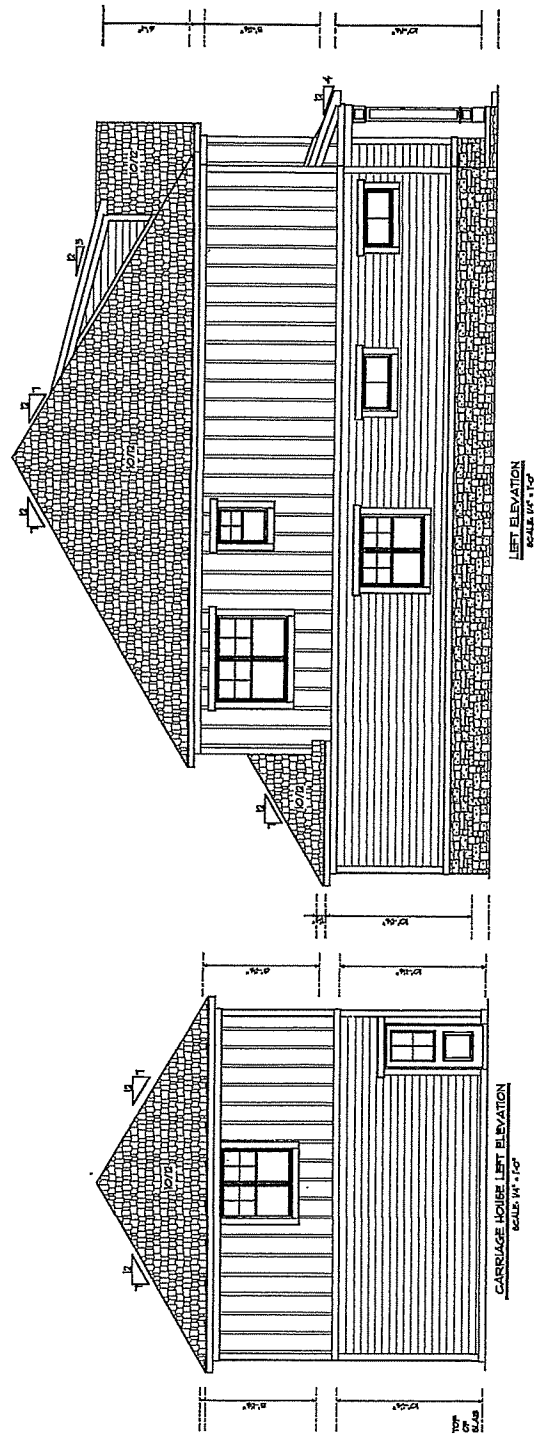
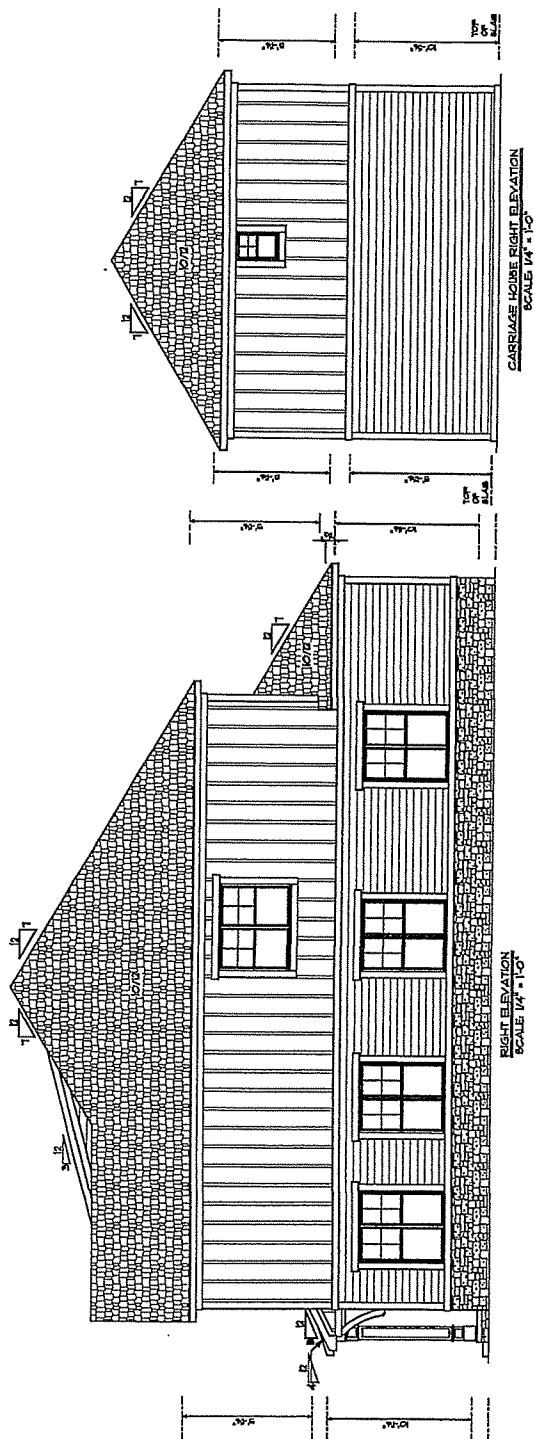


SCALE: 1" = 20'

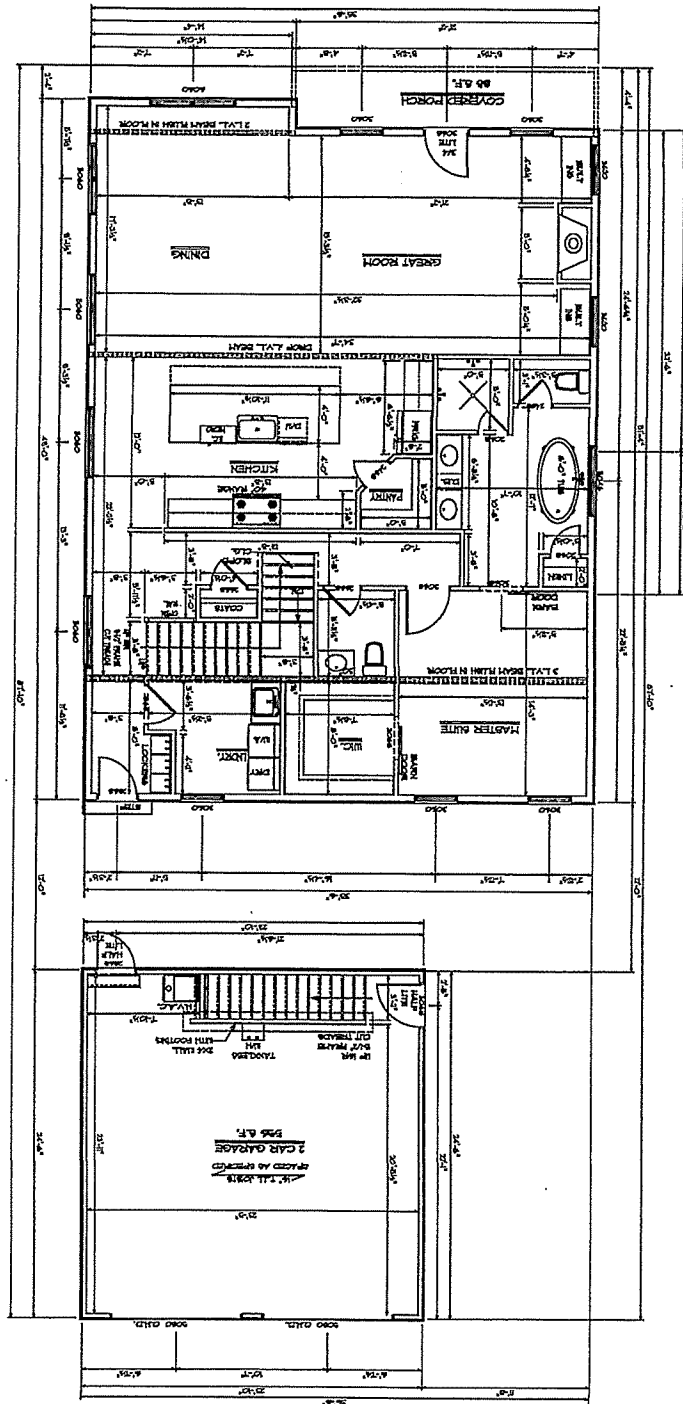
240 N. MAIN STREET

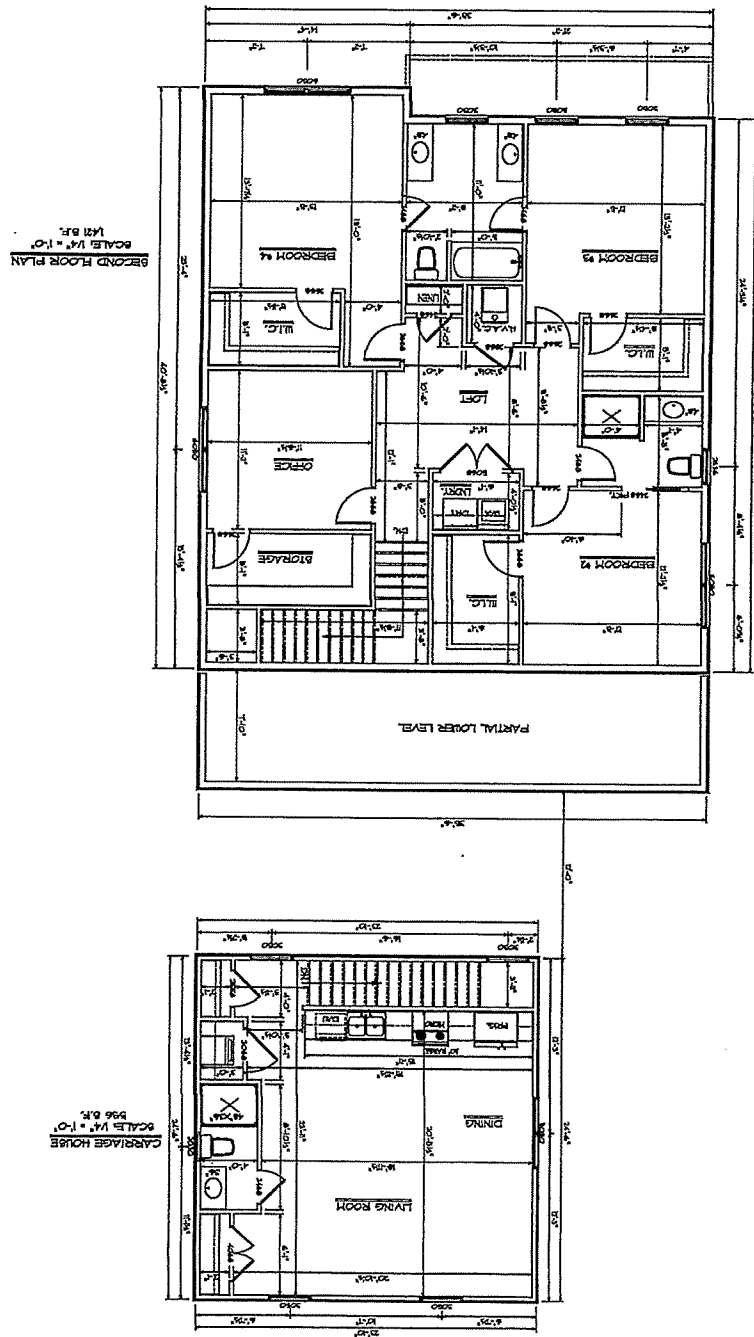






MAIN FLOOR PLAN  
SCALE: 1/4" = 1'-0"  
LTD. S.F.







**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because: **The grant WILL NOT be injurious to the public health, safety, morals, and general welfare of the community because the grant will bring back home ownership to the property, thus increasing the value of the property, home will match the current existing side and front setbacks, eliminate the non-compliant rear set back of garage from 2' to compliant 5' rear setback and will match the scale of existing houses as seen to the North, South and East of the current property.**
2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because: **The use or value of the area adjacent to the property included in the variance WILL NOT be affected in a substantially adverse manner because this project brings back home ownership to this property, increases the value of this property, is similar in lot coverage to other homes along Min Street, with some existing properties already requesting and receiving variances for exceeding lot coverage, will maintain similar front and side set backs that currently exist as well as adjoining properties as surrounding houses, and elimination of rear set back from 2' to 5' bringing the property from non-compliant to complainant.**
3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because: **Strict application of the terms of the zoning ordinance WILL result in unnecessary hardships in the use of the property because this lot will remain a small Historic lot (only 5000 square feet) with the current allowable lot coverage being 1,750 square feet instead of the requested lot coverage asking for 2,400 square feet. The new home will also eliminate the nearly 80 year old detraining brick foundation with wood beams and enhance the value of the home well into the future**

**DECISION**

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Petition Number:** 2019-31-DSV

**Subject Site Address:** 3402 S US 421, Zionsville

**Petitioner:** Aaron & Nicole Busse

**Representative:** Michael Andreoli

**Request:** Petition for Development Standards variance in order to provide for two (2) Primary Structures to exist within the same parcel, in both the Rural Low Density Single Family and Two-Family Residential (R2) and Rural Michigan Road Overlay Zoning Districts (MRO).

**Current Zoning:** Rural Low Density Single Family & Two-Family Residential and Rural Michigan Road Overlay Zoning Districts (R2 & MRO)

**Current Land Use:** Residential

**Approximate Acreage:** 11.4 acres

**Zoning History:** Consolidated into the Town of Zionsville's jurisdiction in 2010. No prior petitions are known.

**Exhibits:**  
Exhibit 1 – Staff Report  
Exhibit 2 – Aerial / Location Map  
Exhibit 3- Petitioner's Site Plan  
Exhibit 4 – Petitioner's Narrative  
Exhibit 5 – Petitioner's Exhibits  
Exhibit 6 – Petitioner's Proposed Commitments  
Exhibit 7 – Petitioners proposed Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM

## **PETITION HISTORY**

This Petition will receive a public hearing at the November 12, 2019 Board of Zoning Appeals meeting.

## **PROPERTY HISTORY**

The approximate 11.4 acres associated with this petition has historically been utilized for residential purposes. Staff is not aware of any prior variance requests for this property.

## **ANALYSIS**

The property associated with this petition came into Zionsville's rural jurisdiction with the 2010 consolidation of Union Township. The 11+ acre parcel was previously improved with a single family dwelling and accessory uses which were recently demolished by the petitioner leaving the parcel undeveloped. As proposed, the Petitioner requests approval for the construction of a Guest House to accompany a new single family dwelling.

The need for the variance arises as the petitioner requests to improve the property with, by definition, two primary dwellings (the Main House, and a Guest House). The intent of the Ordinance, primarily, among other things, is to manage the intensity of contemplated land use(s). Therefore, by Ordinance, only one primary use is permitted per building site. Uniquely, if the proposed structure were an accessory building, by right, the structure (totaled with any additional roofed accessory square footage attached or detached from the primary dwelling) could be constructed, while not exceeding the square footage of the primary structure.

By right, the property could be subdivided into individual parcels which could then be improved with, individually, the proposed dwelling units. However, if divided (assumes the frontage of South US 421 serves as the required road frontage) the resulting lot depth to width ratio would be approximately 8:1 (Ordinance maximum is 3:1). Additionally, due to the proximity of other driveways and the presence of South US 421, a second independent access point likely would be discouraged by the Indiana Department of Transportation. Further, the division of the land in conformance with the Ordinance (and subsequent siting of the proposed dwellings), may further reduce the area intended by the Petitioner to remain in its natural wooded environment. And finally, due to the parcel being created prior to year 2000, the parcel could be divided in a manner when the frontage is developed as a new buildable site, with the remainder as well requiring consideration of a depth to width ratio variance request.

With the above in mind, paired with the Zoning Commitments proposed by the Petitioner, Staff is of the opinion that the intention of the Ordinance will be met and is supportive of the requested deviation.

## **PROCEDURAL – VARIANCE TO DEVIATE FROM STANDARDS**

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*



- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*
- (c) The strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

**STAFF RECOMMENDATIONS**

Staff is supportive of the Development Standards Variance petition included in Docket #2019-31-DSV (based on the submitted conceptual site plan, elevations and subject to the petitioner's proposed commitments as described in petitioner's narrative).

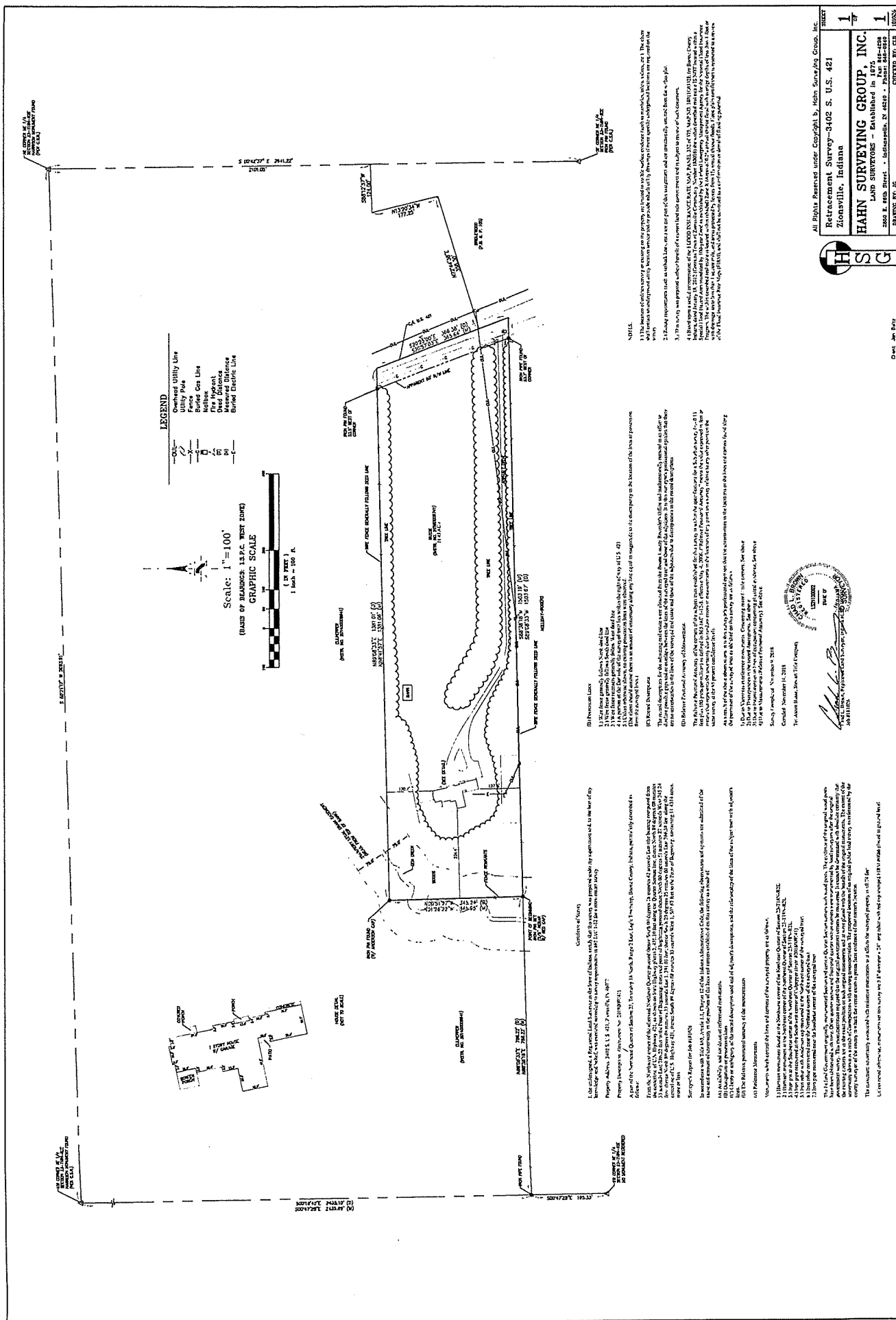
**RECOMMENDATION MOTION**

I move that Docket #2019-31-DSV A. Busse Development Standards Variance Petition in order to provide for two (2) Primary Structures to exist within the same parcel, in both the Rural Low Density Single Family and Two-Family Residential (R2) and Rural Michigan Road Overlay Zoning Districts (MRO), for the property located at 3402 S US 421 be (Approved as presented / Approved based upon the staff report and the proposed findings / Denied / Continued).







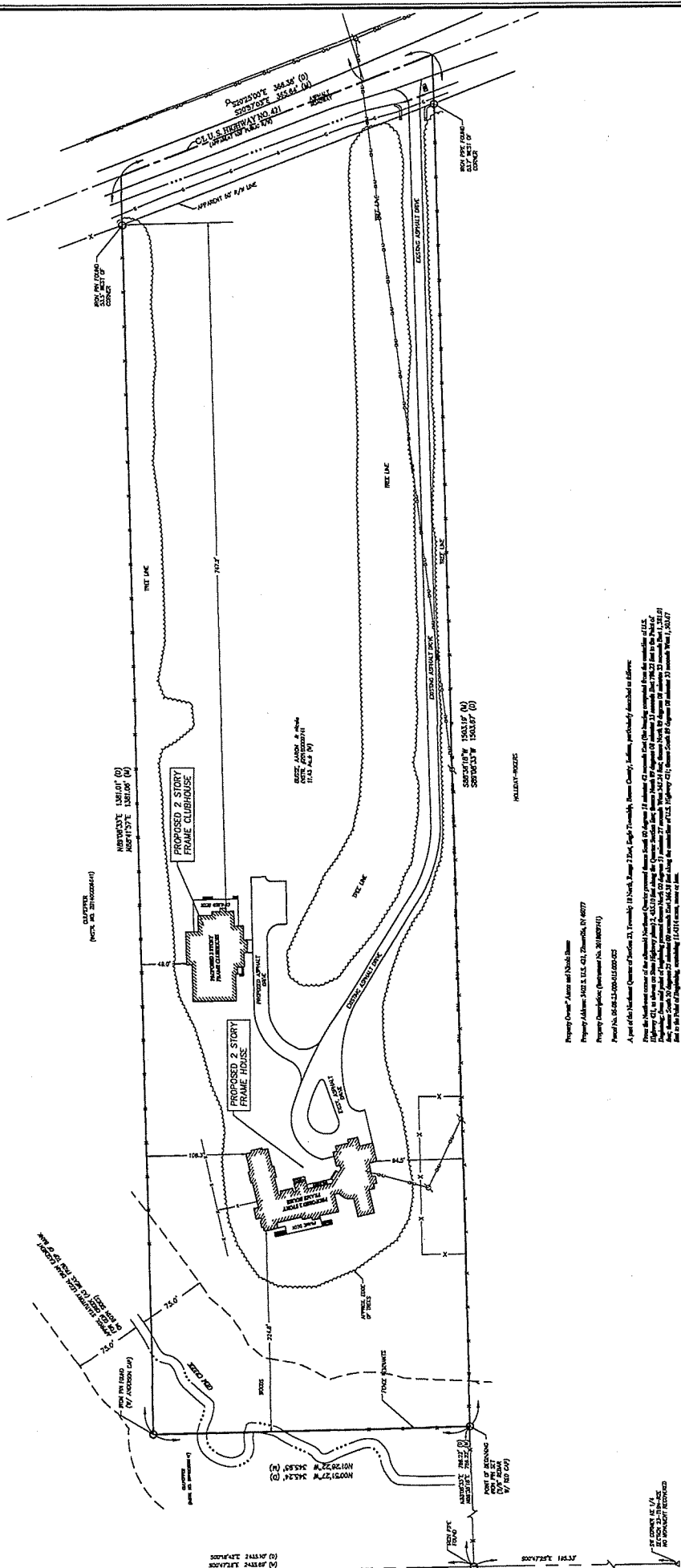





### NARRATIVE

Mr. and Mrs. Busse recently purchased an 11.43 acre tract of ground located at 3402 S. US 421, Zionsville, Indiana. This tract enters off of Michigan Road and is adjacent to the Holiday Farms property immediately to its south. Mr. and Mrs. Busse are seeking a Variance of Development Standards in order to create two single family homes on the lot. The first structure, that being the primary residence for the Busse's, is approximately 8,267 square feet and drawings have been included with the Petition for Variance of Development Standards. Further, the Busse's intend to construct a party barn/guest house that will be approximately 6,086 square feet that will contain a kitchen, bathroom facilities and two bedrooms. This will be used for family, friends and business guests of Mr. and Mrs. Busse. Drawings have been enclosed for both the primary residence and party barn/guest home.

This request for a Variance of Development Standards is essentially the same as approved by the Zionsville Board of Zoning Appeals in Docket #2015-15-DSV. By way of reference, this was the property on Hunt Club Road consisting of 45.82 acres owned by Cheryl Baber and Rural Partners, LLC. This Applicant is submitting for the Board's consideration the Commitments concerning the Use or Development of Real Property made in connection with Variance of Development Standards in the Rural Partners, LLC, matter which was adopted by the Board and recorded. The Petitioner will agree to make the same Commitments and will, in fact, adopt a draft for further review by Staff and the Board.





**HAHN SURVEYING GROUP, INC.**

LAND SURVEILLANCE • ESTABLISHED IN 1976

8040 N. MICHIGAN STREET, SUITE 120, INDIANAPOLIS, IN 46260

PHONE: (317) 442-8460 FAX: (317) 442-1488 E-MAIL: [JOHN@HANSURV.COM](mailto:JOHN@HANSURV.COM)

**PROPOSED SITE PLAN / EXHIBIT**

**3402 S. U. S. 421, ZIONSVILLE, IN**

DATE: 1/11/05

BY: JAH

1"=100' H.S.D.

1"=100' H.S.D.

1"=100' H.S.D.

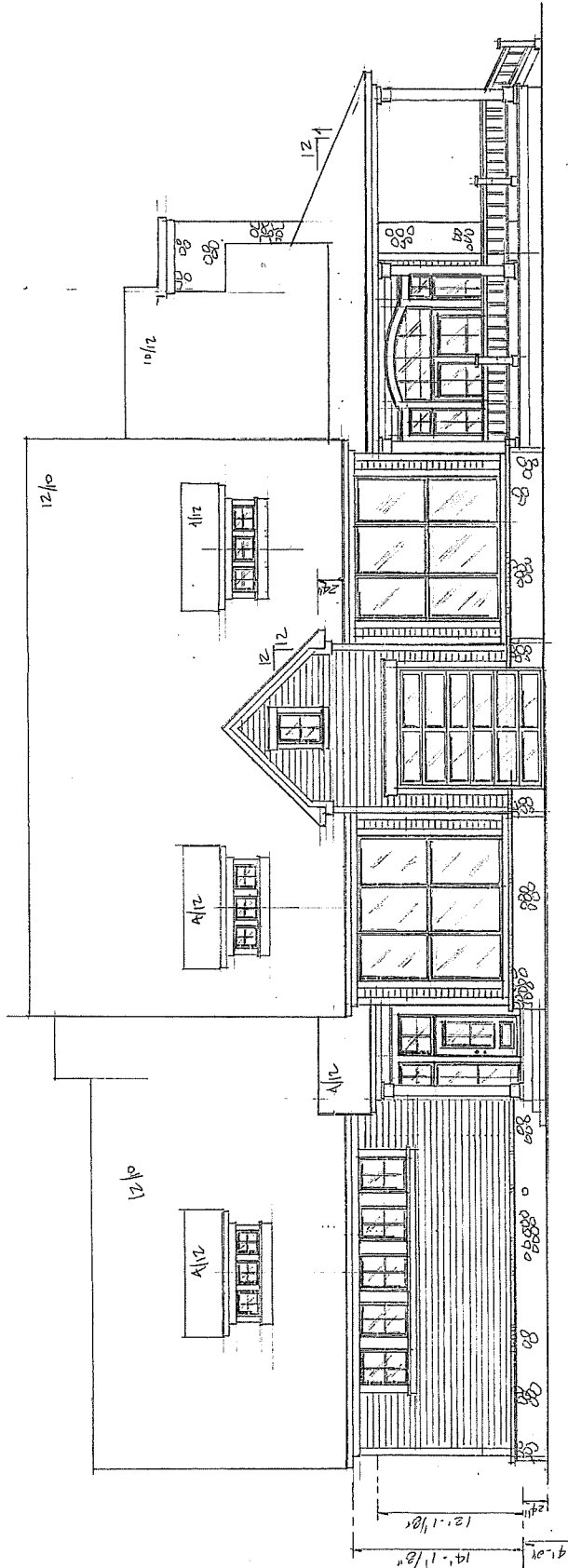
DATE: 1/11/05

BY: JAH

1"=100' H.S.D.

[illegible]





FRONT ELEVATION

3/16" = 1'-0"

THE BUSSES GUEST HOUSE

FOR: AARON & NICOLE BUSSES

DESIGN BY: ROGER WILLIAMS

DATE: 11.2.19

RECEIVED  
NOV 04 2019  
TOWN OF BIRMINGHAM

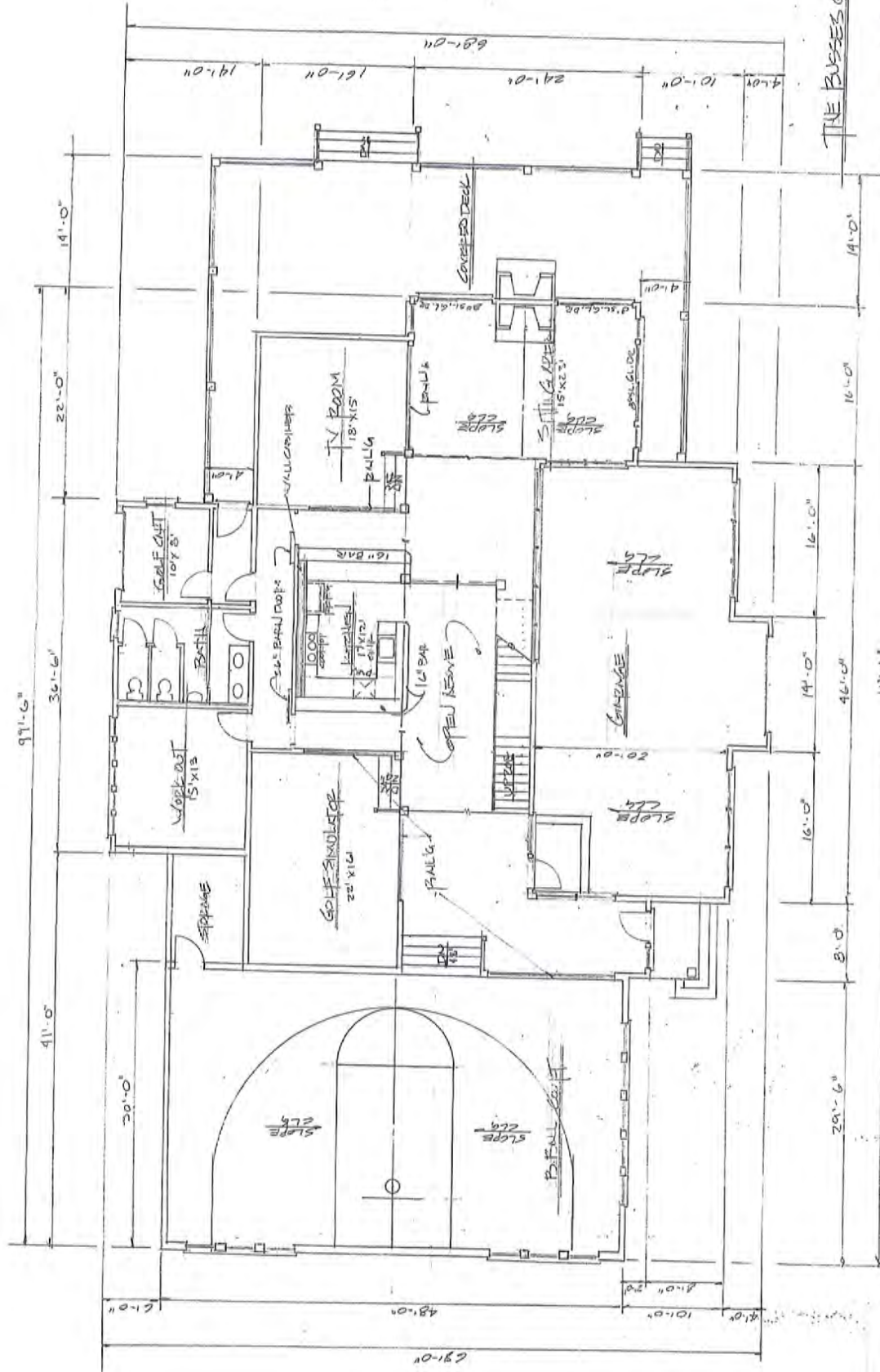


RECEIVED  
NOV 04 2019  
TOWN OF ZIONSVILLE

THE BUESSES GUEST LODGE

FOR: AARON & NICOLE BUESSES  
DESIGNED BY: ROGER WILLIAMS

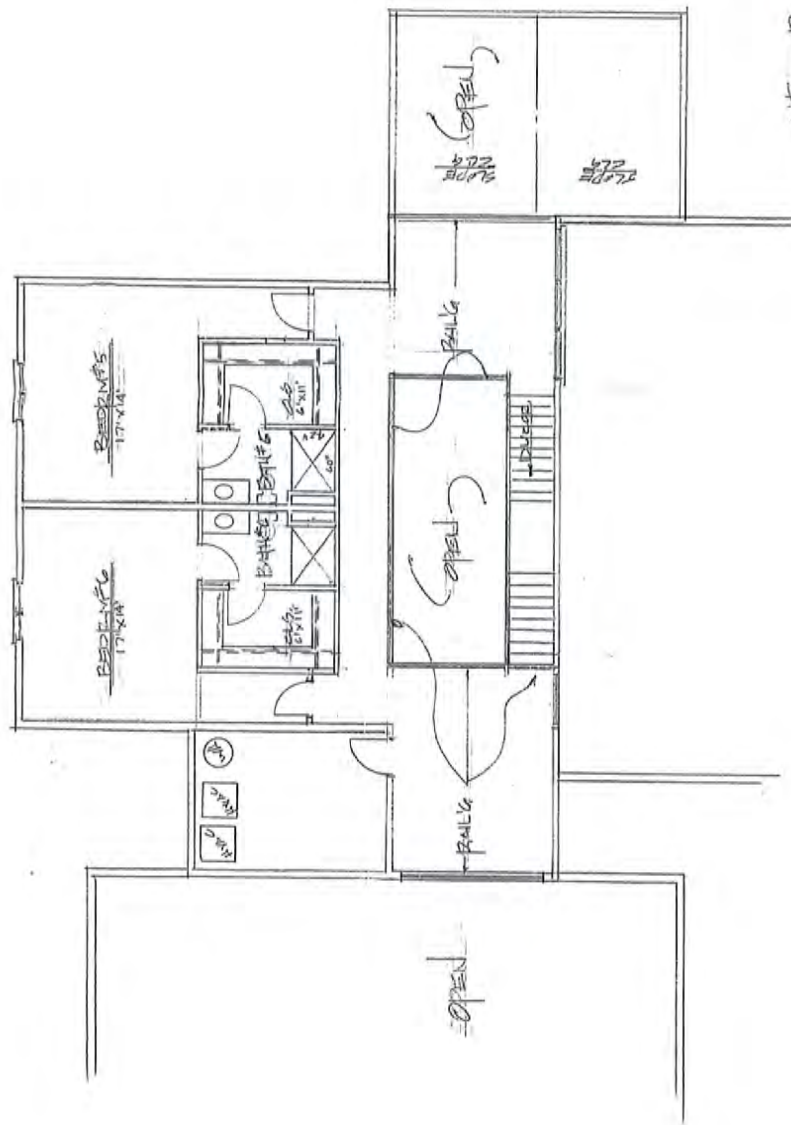
DATE: 11.2.19



1st Floor Plan

3/16" = 1'-0"  
432L 1st Floor  
1760 2nd Floor  
6086 Total





THE BUSSES GUEST HOUSE

FOR: ARON & MIKALE BUSSES

DESIGNED BY: BOBIE WILLIAMS

DATE: 11-2-19

2ND FLOOR PLAN

3/16" = 1'-0"

1760# L.L.

RECEIVED  
NOV 04 2019  
TOWN OF ZIONSVILLE

**DRAFT**

**ZIONSVILLE BOARD OF ZONING APPEALS  
FILE 2019-31-DSV**

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT  
OF REAL PROPERTY MADE IN CONNECTION  
WITH VARIANCE OF DEVELOPMENT STANDARDS**

**Aaron Busse and Nicole Busse**, husband and wife, (hereinafter referenced as "Owner") represents and warrants that Owner is the owner of certain real estate located in the Town of Zionsville, Boone County, Indiana, which real estate is described in Exhibit "A" attached hereto ("Real Estate"). Owner further represents and warrants that Owner has the authority to, and does hereby voluntarily make, the following **COMMITMENTS** concerning the use and development of the Real Estate:

**STATEMENT OF COMMITMENTS**

1. Owner voluntarily agrees and commits that the approval of Docket No. 2019-31-DSV requesting a Variance to construct two (2) primary structures on the same parcel of ground is approved and conditioned specifically on the following:
  - a) That the Guest House upon the Real Estate will not be occupied or lived in until after the primary residential structure (the house) has been built and receives its Certificate of Occupancy ("C of O") from the Zionsville Building Inspector.
  - b) That the 11.4314 (+/-) acres comprising the Real Estate will not be split by way of lot or otherwise to enable the Guest House to be considered a primary structure (the house) nor split to have the Guest House on its own parcel to independently occupy, sell, transfer or similar action pursued.
  - c) That the Guest House shall not be sublet, leased or occupied independently of the primary structure (the house); therefore, the Guest House shall not be leased unless the primary residence upon the Real Estate is leased, in which event the Guest House may be leased to the same party as the primary structure (the house) so long as said lease remains in effect.
  - d) In the event that the septic is installed prior to the construction and the issuance of a Certificate of Occupancy of the primary

residence, the septic shall be capped until a Certificate of Occupancy is issued and approved for the primary structure (the house).

The **COMMITMENTS** contained herein shall be effective upon approval of the Zionsville Plan Commission, Application or Petition Number 2019-31-DSV, and shall continue in effect until modified or terminated in conformance with the requirements herein.

These **COMMITMENTS** shall be executed and promptly recorded in the Office of the Boone County Recorder, Boone County, Indiana, and shall be considered a Covenant running with the land described herein as the Real Estate, as set out in Exhibit "A".

These **COMMITMENTS** shall be binding on the Owner of the Real Estate, subsequent owners of the Real Estate and on any and all other persons or entities acquiring an interest in the Real Estate (hereinafter collectively "Owners").

The Owner shall have an affirmative duty to inform any third parties with whom the Owner negotiates for a possible sale, lease, assignment, mortgage, or transfer of the Real Estate of the existence of these commitments. In the event any sale, lease, assignment, mortgage or transfer occurs, the Owner shall ensure that a copy of these **COMMITMENTS** is incorporated into any such written agreement with the third party.

In the event the Owner fails to comply with the terms of this paragraph and the third party fails to perform these **COMMITMENTS**, the Town of Zionsville shall be entitled to recover from the Owner and from each third party who has become a subsequent owner of the Real Estate after these **COMMITMENTS** are recorded, jointly and/or severally, any and all damages which arise from this failure and shall also be entitled to injunctive relief to terminate any non-compliance herewith.

These **COMMITMENTS** may be modified or terminated by decision of the Zionsville Board of Zoning Appeals made after a Public Hearing for which proper notice is given, including hearings for other land uses or zoning approvals involving the Real Estate or any portion thereof described in Exhibit "A". Further, these **COMMITMENTS** may be enforced by the Board of Zoning Appeals for the Town of Zionsville, Indiana.

These **COMMITMENTS** may be enforced, jointly and/or severally, by the Town of Zionsville Board of Zoning Appeals, the Director of Planning for the Town of Zionsville (or a position created for the Town of Zionsville which is analogous thereto), the Town (including a successor city or other municipality), and/or owners of any parcel of ground adjoining or adjacent to the Real Estate. Owner and all Owners shall be obligated hereunder to indemnify the Town of Zionsville Board of Zoning Appeals and the Town (including a successor city or other

municipality), and to hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or Owners' obligations under the terms and conditions of these **COMMITMENTS**. Throughout these **COMMITMENTS** any reference to "Town" shall also include any successor city, municipality, or other governmental body having land use planning and zoning jurisdiction over the Real Estate.

In the event it becomes necessary to enforce these **COMMITMENTS** in a court of competent jurisdiction, and the Owner and/or any subsequent owner(s) of the Real Estate are found to be in violation of these **COMMITMENTS**, all such violators shall pay all reasonable costs and expenses the Town and the Town's Board of Zoning Appeals and other authorized representatives incur in the enforcement of these **COMMITMENTS**, including attorney fees, expert witness fees, and court costs, provided the Town and Town's Board of Zoning Appeals is successful in an enforcement action.

The Owner agrees to indemnify the Town of Zionsville, Indiana (and any successor city or municipality) and hold it harmless from any and all liability, expense, costs or damages which result from the failure to perform Owner's obligations under the terms and conditions of these **COMMITMENTS**.

The Owner shall be responsible, at its expense, for recording these **COMMITMENTS** in the Office of the Recorder of Boone County, Indiana, upon the final approval of the Board of Zoning Appeals of Petition No. 2019-31-DSV and shall provide the Planning Department of the Town of Zionsville with copies of such recording as a condition precedent for the issuance of an Improvement Location Permit, the Building Permit, and/or Certificate of Occupancy. These **COMMITMENTS** shall be considered a Covenant running with the Real Estate, as described in Exhibit "A".

The undersigned, by executing these **COMMITMENTS** represents and warrants that at the time of executing these **COMMITMENTS**, Rural Partners LLC is in good standing and the sole owner of the Real Estate described in Exhibit "A", and that these **COMMITMENTS** shall be binding upon Owner as to all the particulars herein and shall be a COVENANT running with the land described herein as the Real Estate, including any portion thereof.

**IN WITNESS WHEREOF**, the Owner has executed these **COMMITMENTS** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**OWNER:**

## Aaron Busse

## Nicole Busse

**STATE OF INDIANA                    )**  
  **) SS:**  
**COUNTY OF BOONE                    )**

Before me, a Notary Public, in and for said County and State, personally appeared **Aaron Busse and Nicole Busse, husband and wife**, as Owner of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Signature \_\_\_\_\_

Printed \_\_\_\_\_  
Notary Public

**My Commission Expires:**

County of Residence:

**I affirm under the penalties for perjury that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.**

Michael J. Andreoli

**This instrument prepared by Michael J. Andreoli, Attorney at Law,  
1393 West Oak Street, Zionsville, Indiana 46077, (317) 873-6266.**



LEGAL DESCRIPTION  
Exhibit "A"

A part of the Northeast Quarter of Section 23, Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana, particularly described as follows:

From the Northwest corner of the aforesaid Northeast Quarter proceed thence South 00 degrees 18 minutes 42 seconds East (the bearing computed from the centerline of U.S. Highway 421, as shown on State Highway plans) 2,435.10 feet along the Quarter Section line; thence North 89 degrees 08 minutes 33 seconds East 786.22 feet to the Point of Beginning; from said point of beginning proceed thence North 00 degrees 51 minutes 27 seconds West 345.24 feet; thence North 89 degrees 08 minutes 33 seconds East 1,381.01 feet; thence South 20 degrees 25 minutes 00 seconds East 366.38 feet along the centerline of U.S. Highway 421; thence South 89 degrees 08 minutes 33 seconds West 1,503.67 feet to the Point of Beginning, containing 11.4314 acres, more or less.

Commonly known as 3402 S. U.S. 421, Zionsville, IN 46077

A. BUSSE

**TOWN OF ZIONSVILLE  
BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

1. The grant **will not** be injurious to the public health, safety, morals and general welfare of the community because: **we have sufficient acreage that this will not appear crowded or cluttered.**
2. The use or value of the area adjacent to the property included in the variance **will not** be affected in a substantially adverse manner because: we do not anticipate any objection from our surrounding neighbors to adding a guest house. **Further, we will have commitments to limit the use consistent with a single family estate.**
3. Strict application of the terms of the zoning ordinance **will** result in unnecessary hardships in the use of the property because: **as we have 11.4314 acres, an additional building will allow for continued appropriate use of our property for a party barn/guest house.**

**DECISION**

It is therefore the decision of this body that this **VARIANCE** petition is **APPROVED//  
DENIED.**

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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**Petition Number:** 2019-32-DSV

**Subject Site Address:** 8250/8300 E 100 South, Zionsville

**Petitioner:** Caleb & Jill Longenberger

**Representative:** David & Justin Kingen – Downtown Neighborhood Zoning Assistance, Inc

**Request:** Petition for Development Standards variance in order to provide for the construction of an accessory structure which:  
1) Exceeds the allowable accessory square footage in the Low-Density Single-Family Residential Zoning District (R1).

**Current Zoning:** Rural Low Density Single Family Residential (R1)

**Current Land Use:** Residential

**Approximate Acreage:** 16.34 acres

**Zoning History:** Consolidated into the Town of Zionsville's jurisdiction in 2010.  
  
# 2016-20-DSV - PL Properties LLC - Lot width to depth ratio  
# 2016-41-MP - PL Properties LLC – Derr Farm Primary Plat  
# 2016-52-SP - PL Properties LLC – Derr Farm Secondary Plat

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial / Location Map  
Exhibit 3 - Petitioner's Site Plan  
Exhibit 4 – Petitioner's Exhibits  
Exhibit 5 – Petitioners proposed Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM

## **PETITION HISTORY**

This Petition will receive a public hearing at the November 12, 2019 Board of Zoning Appeals meeting.

## **PROPERTY HISTORY**

The property associated with this petition came into Zionsville's rural jurisdiction with the 2010 consolidation of Union Township. In 2016 the approximate 16 acres associated with this petition were subdivided as part of a 4-lot subdivision (2016-41-MP Primary Plat, 2016-52-SP Secondary Plat). The lots also received a variance of development standards (2016-20-DSV) for lot width to depth ratio. The petitioner owns both Lots 1 and 2 of the Derr Farm subdivision. Though the acreage associated with this petition request is focused on Lot 2, as owner of both lots, the ordinance allows this to be looked at as one lot of record.

## **ANALYSIS**

Prior to the creation of the subdivision, the acreage associated with this petition was historically utilized for agricultural purposes under the Boone County Area Planning jurisdiction. In 2018, subsequent to the approval of the subdivision, the Petitioner's new single-family home was completed on Lot 1. As proposed, the Petitioner requests approval for the construction of an accessory structure to be located on Lot 2 (also owned by the Petitioner) to accompany the single family dwelling.

## **VARIANCE REQUEST – ACCESSORY SQUARE FOOTAGE EXCEEDING PRIMARY**

The parcel is currently improved with a 7,195 square foot family dwelling (the primary structure). The parcel is currently utilized for residential purposes and accessory uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 7,195 square feet
2. Existing and proposed accessory uses total 8,006 square feet, inclusive of:
  - a) A 1,176 square foot attached garage – first floor
  - b) A 644 square foot attached garage storage – second floor
  - c) A 832 square foot covered front porch
  - d) A 90 square foot covered rear patio
  - e) A 48 square foot side porch
  - f) A 216 square foot garden shed
  - g) A proposed 4,800 square foot barn
  - h) A proposed 200 square foot covered area attached to the proposed barn

By Ordinance, properties in the R-1 (Rural) District are permitted by right to be improved with Accessory Structures which exceed the 1) height, 2) area, 3) bulk extent, and 4) purpose to the Primary Structure IF the property is at least 20 acres in size AND is classified as a Farm. As the subject site is not 20 acres in size, a variance must be sought (in order to improve the property as proposed by the Petitioner). Absent compliance with the definition of Farm, the Ordinance limits accessory uses in a manner which maintains the presence of accessory uses, as accessory (as to not dominate the use of the property and become Primary use of the property. Specific to the current improvements, securing a variance to allow the roofed accessory square footage to exceed the primary square footage by 811 square feet.

As a part of the review process, Staff examines the established development pattern found in the immediate area to the subject site, in an attempt to identify similarly situated properties enjoying similar deviations. While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds several development configurations which are not supported by the current Zoning Ordinance (example: flag lots, percentages of accessory buildings, heights of accessory buildings, non-conforming uses, and lots with reduced road frontage). While the identified development pattern is atypical for the community, a request seeking a minor deviation from Ordinance standards in areas of the community which contain established non-conformities is not.

The request, in the opinion of Staff, constitutes a minor deviation from the Zoning Ordinance and, given the size of the Lot of Record which is the subject of the filing and the scale of the totality of the contemplated improvements, the contemplated placement of the improvements, and the presence of non-conformities in the immediate area (West: legal non-conforming landscaping operation; accessory over primary, East: accessory over primary), on its face, appears supportable.

Further, as the site is within a platted subdivision, staff is conscious of the contemplated improvements presence within a platted subdivision, and, the interest of the Derr Farm Minor Subdivision Home Owners Association (or collective representation of the property owners) may have in the Petitioner's request. Barring any concerns of the Derr Farm Home Owner's Association (or any other party entitled to receive personal notice) being made of record during the disposition of the Petitioner's filing, Staff would not oppose the request.

With the above in mind, Staff is supportive of the request to approve a variance to exceed the primary square footage with 811 square feet of additional roofed accessory structure (of which 200 square feet is designed to provide covered storage while being open to the elements), not being subordinate to the Primary Structure, noting that contemplated improvements of Lot 2 are accessory in nature, subordinate to the improvements on Lot 1, and the contemplated improvements on Lot 2 are not intended or permitted to be utilized as a primary structure unless proper permits are secured from both the Town of Zionsville and from Boone County.

#### **PROCEDURAL – VARIANCE TO DEVIATE FROM STANDARDS**

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*
- (c) The strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.



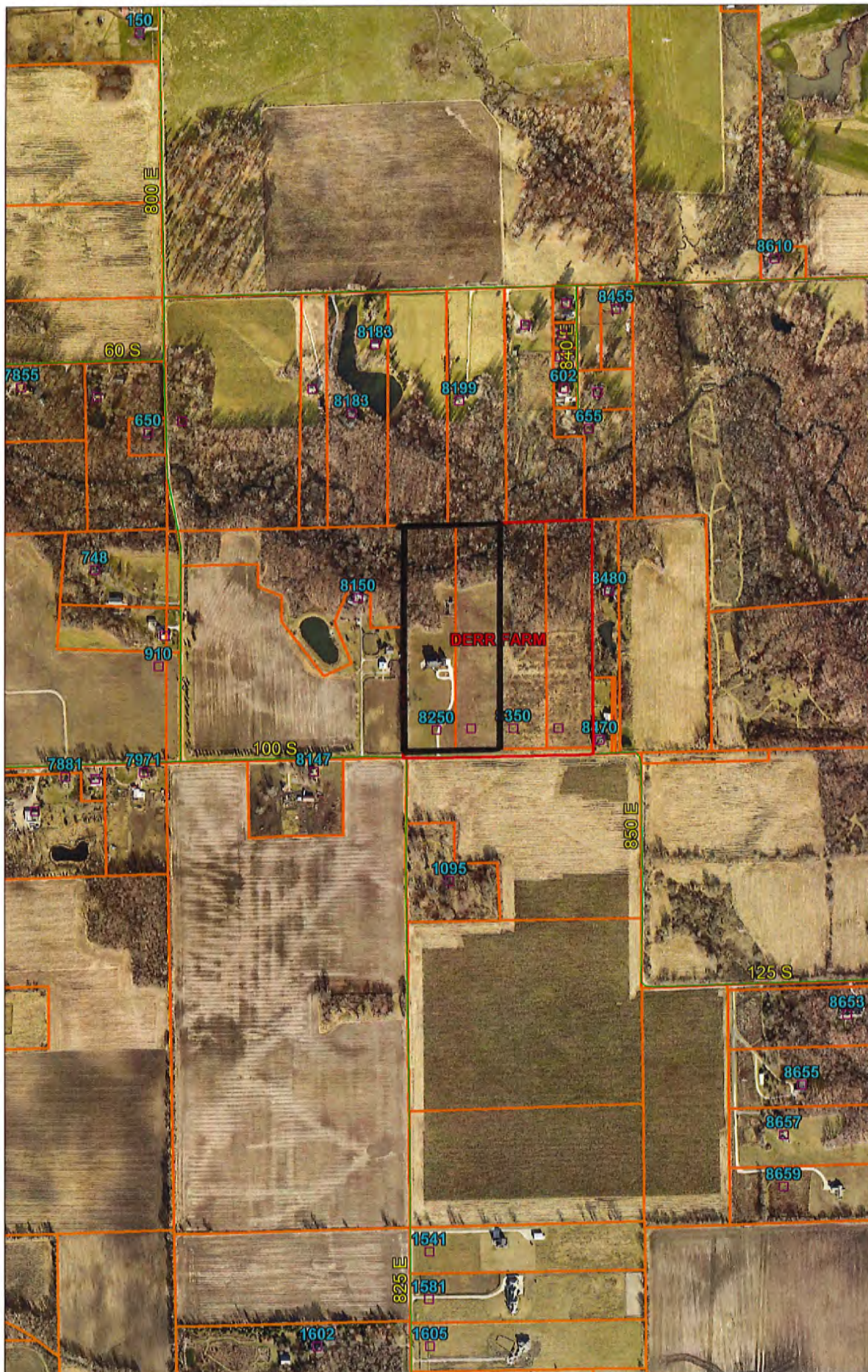
### **STAFF RECOMMENDATIONS**

Staff is supportive of the Development Standards Variance petition included in Docket #2019-32-DSV (based on the submitted conceptual site plan and renderings), as filed.

### **RECOMMENDATION MOTION**

I move that Docket #2019-32-DSV C. Longenberger Development Standards Variance petition in order to provide for the construction of an accessory structure on Lot 2 in Derr Farm which 1) Exceeds the allowable accessory square footage, in the Low-Density Single-Family Residential Zoning District (R1), for the property located at 8250/8300 E 100 South be (Approved as presented / Approved based upon the staff report and the proposed findings / Denied / Continued).





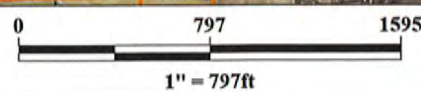
- Regional Counties
- Townships
- Zionsville Corporate
- Parcels
- Boone Subdivisions

Boone County Address

Regional County

- Railroads
- Roads
- Highways

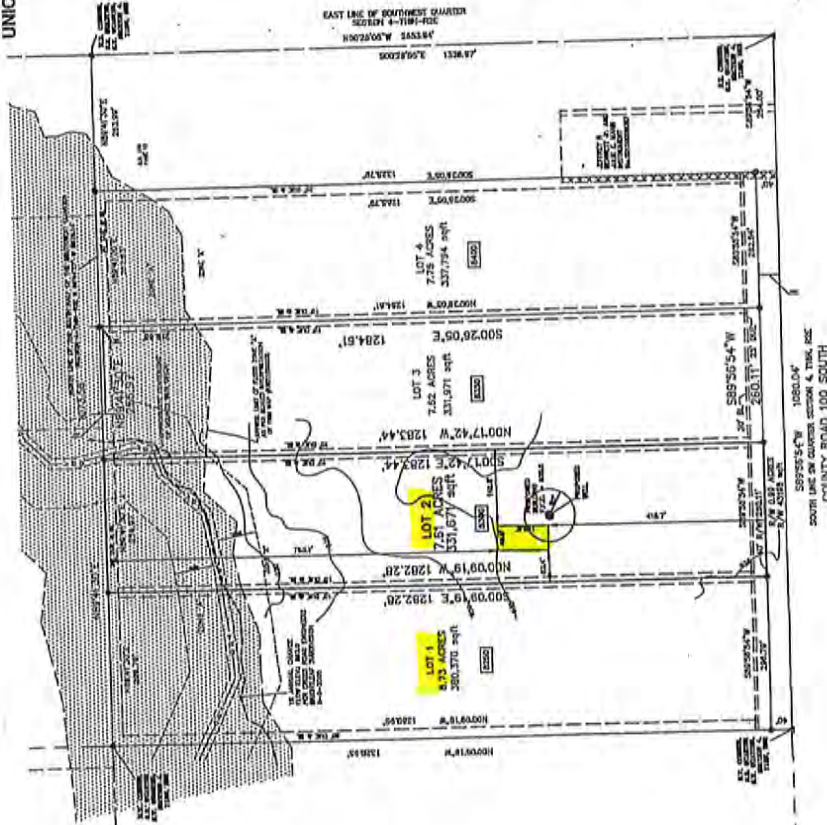
Exhibit 2





# SITE PLAN

LOT 2 IN DERR FARM  
UNION TOWNSHIP, BOONE COUNTY, INDIANA



## LAND DESCRIPTION

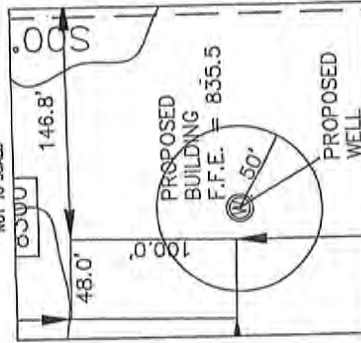
LOT NUMBER TWO IN DERR FARM AS PER PLAT OF SAID ADDITION RECORDED IN PLAT BOOK 24 OF RECORD IN THE OFFICE OF THE RECORDER OF BOONE COUNTY, INDIANA.

## LEGEND

R/W = RIGHT OF WAY  
DUE & BL = DRAINAGE UTILITY EASEMENT AND BUILDING LINE

## BUILDING DETAIL

NOT TO SCALE



## NOTES

THE PURPOSE OF THIS SITE PLAN IS FOR THE PROPOSED BUILDING.  
THE CONTOUR SHOWN WERE TAKEN FROM THE BOONE COUNTY GIS WEBSITE.



## REVISIONS

DESCRIPTION

*K. Nathan Althouse*  
Professional Engineer

8/12/19

## MILLER SURVEYING INC.

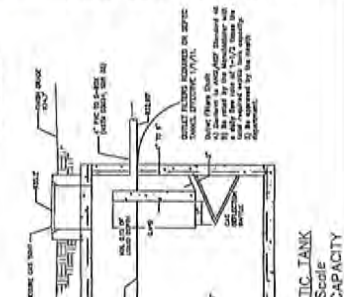
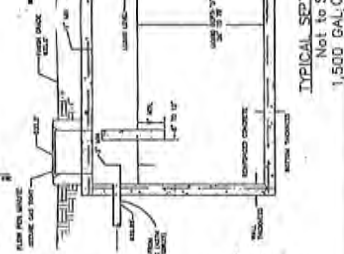
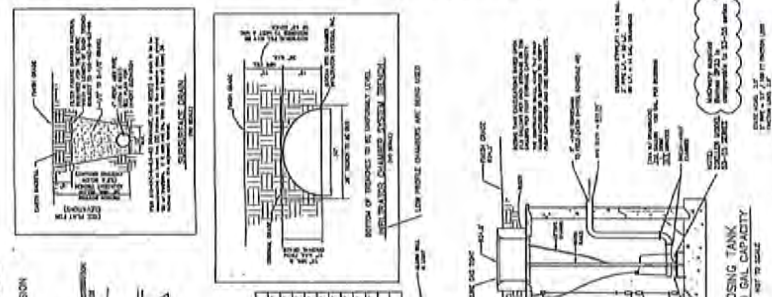
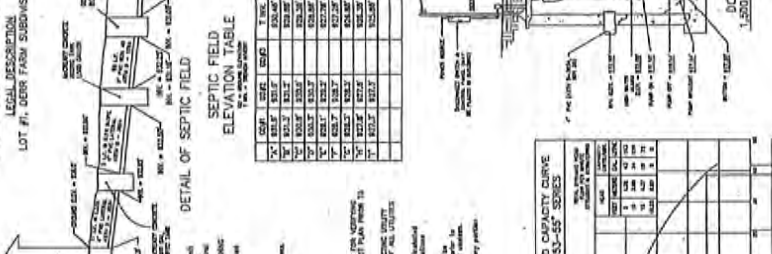
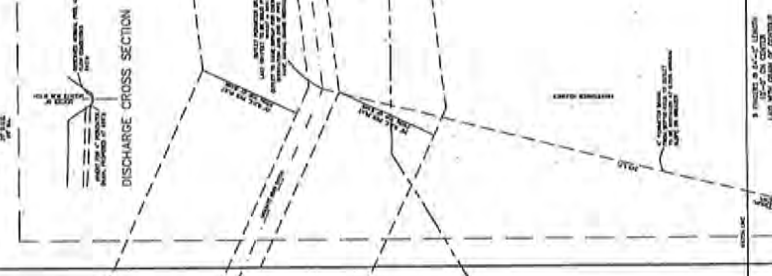
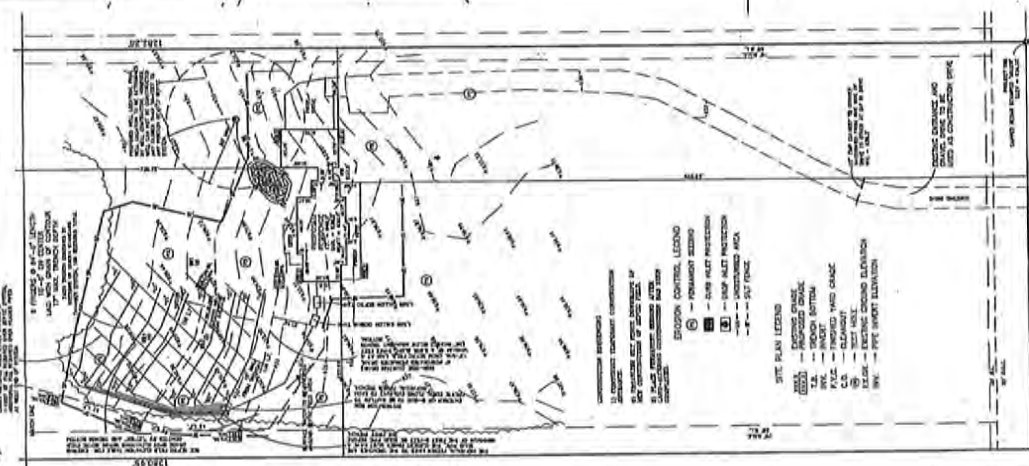
LOT 2  
UNION TWP BOONE CO. INDIANA  
FIELD WORK COMPLETED 7/15/19  
CLIENT: CALER LUMBERMEN  
JOB NUMBER: B38561  
SURVEY & FILE

THE DESIGN SITE PLAN WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE POLICY AND A REVISION TO THE DESIGN SHALL BE REQUIRED BY EXAMINATION OF SCHEDULE "N" AND SCHEDULE "B" OF A TITLE POLICY.

8300 COUNTY ROAD 100 SOUTH

# EXISTING HOME SITE PLAN

## PLOT PLAN



LAND DEVELOPMENT CONSULTING  
11650 Old Road, Suite 100-289  
Fishers, Indiana 46037  
Phone: (317) 841-8752  
Fax: (317) 841-8752  
Email: Treg@lndevconsult.com



SEPTIC TANK  
LOT #1, DERR FARM  
LONGERBERGER RESIDENCE  
2020 E. COUNTY ROAD 100 SOUTH  
UNION TWP., BOONE COUNTY, INDIANA

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Exhibit 4



Exhibit 4







Exhibit 4



Exhibit 4



**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because:  
The detached accessory structure shall be similar in size to the existing single family structure and will be similar or smaller in size to many other detached accessory structures in the nearby vicinity. The detached accessory structure will be set back over 400 feet from East County Road 100 South and will therefore not be injurious to the public health.
2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:  
The detached accessory structure will be used for residential purposes only and will be used in a similar fashion to other detached accessory structures in the area. The detached accessory structure will consist of new construction, which will increase the value of the subject site and the surrounding properties.
3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:  
The proposed detached accessory structure will be subordinate in height, area, bulk extent and purpose to the primary structure. Only when the square footage of the detached structure is added to the area size of the exterior porches and attached garage does the proposed accessory barn become non-compliant. Therefore, this variance request is a very minor deviation from the ordinance and the proposed structure will be consistent with the other detached accessory structures in the vicinity of the subject site.

**DECISION**

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Petition Number:** 2019-33-UV

**Subject Site Address:** 10601 Bennett Parkway

**Petitioner:** Zionsville MOB Investors, LLC

**Representative:** Jeff Jacob, Attorney for Petitioner  
Hackman Hulett LLP

**Request:** Petition for a Variance of Use to permit a Clinic as a Primary Use in the Urban Heavy Industrial Zoning District (I-3).

**Current Land Use:** Vacant Parcel

**Approximate Acreage:** 2.48± acres

**Zoning History:** 2006-27-SP Secondary Plat of Bennett Tech Park (Approved)  
2019-34-SE Special Exception for Office as a Primary Use (Pending)  
2019-35-DSV Development Standards Variance for Reduction of Front Yard Setback (Requested by Petitioner to be Withdrawn)

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Proposed Site Plan  
Exhibit 4 – Petitioner's Exhibits - Conceptual Building Elevations  
Exhibit 5 – Petitioner's Proposed Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM

## **PETITION HISTORY**

This petition will receive a public hearing at the November 12, 2019, Board of Zoning Appeals meeting. A related petition for a Special Exception is also scheduled to be heard at the November 12, 2019, Board of Zoning Appeals meeting (2019-34-SE). A Development Standards Variance (2019-35-DSV) for this site had also been filed and docketed for public hearing, but the Petitioner has requested this item be withdrawn.

## **PROPERTY HISTORY & SITE DESCRIPTION**

The subject site is located within the Bennett Technology Park which was approved, via a Secondary Plat, in 2006. The subject site is addressed as 10601 Bennett Parkway and is located on the northeast corner of the intersection of Bennett Parkway and West 106<sup>th</sup> Street. The site is approximately 2.48+/- acres and is not improved. The site is bordered on the south by West 106<sup>th</sup> Street; on the west by Bennett Parkway; on the north by Charles Court; and on the east by a retention pond serving Bennett Technology Park. The site and adjoining parcels to the north and east are zoned Urban Heavy Industrial Zoning District (I-3). Adjoining parcels to the south and west are zoned Urban General Industrial (I-2).

The Petitioner proposes to construct a single-story, commercial building of approximately 20,000 square feet with related parking areas. Vehicular access to the development will be from Bennett Parkway and Charles Court; no curb cut is proposed on 106<sup>th</sup> Street. Pedestrian maneuverability on site will include sidewalks along the Bennett Parkway and Charles Court frontages. Sidewalks are designed to connect the proposed building's main entry, located on the north façade of the building, to the sidewalk along Bennett Parkway and the existing pedestrian path on the north side of 106<sup>th</sup> Street.

## **ANALYSIS**

The proposed building will contain two primary uses: a Clinic (subject of this Variance of Use request) to occupy the eastern two-thirds of the building, and the western third of the building will be occupied by offices (subject of an accompanying Special Exception request - see Board of Zoning Appeals Staff Report for Case #2019-34-SE). The term Clinic is defined by the Zionsville Zoning Ordinance as "A building used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons, and those who are in need of medical and surgical attention, but which building does not provide board, room or regular hospital care and services." This use is not permitted as a Primary Use in the I-3 district.

Clinic is identified as a permitted Primary Use only in the Urban B-O, Urban B-1, Urban B-2, and Urban B-3 districts. However, the existing uses along this portion of 106<sup>th</sup> Street and nearby uses within the Bennett Technology Park would not conflict with the proposed Clinic, nor would the Clinic conflict with surrounding uses. With this in mind, Staff is supportive of the requested Variance of Use for a Clinic at the subject site.

## **Time Line**

Typically, the Board of Zoning Appeals weighs heavily the concept of establishing a "sunset date" (or "check in date" / "renewal date") for any Use Variance it approves within the Town. As such, if the Board of Zoning Appeals is inclined to favorably consider the petition, the Board of Zoning Appeals

should discuss this topic with the Petitioner during the course of the public hearing while noting the Petitioner's timeline for investment and improvement to the site.

**PROCEDURAL – CONSIDERATION OF A USE VARIANCE PETITION SEEKING APPROVAL**

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Use Variance requests as provided for by the Zionsville Zoning Ordinance. A Use Variance may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
- (c) The need for the variance arises from some condition peculiar to the property involved; and strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (d) The strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (e) The approval does not interfere substantially with the Comprehensive Plan*

Proposed Findings of Fact from the Petitioner are attached for the Board of Zoning Appeal's consideration.

**STAFF RECOMMENDATIONS**

Staff recommends approval of the Use Variance for a Clinic as a Primary Use within this location included in Docket #2019-33-UV.

**RECOMMENDATION MOTION**

I move that Docket #2019-33-UV Use Variance to permit a Clinic as a Primary Use at 10601 Bennett Parkway, be (Approved as filed, based upon the findings of fact / Denied / Continued) as presented.



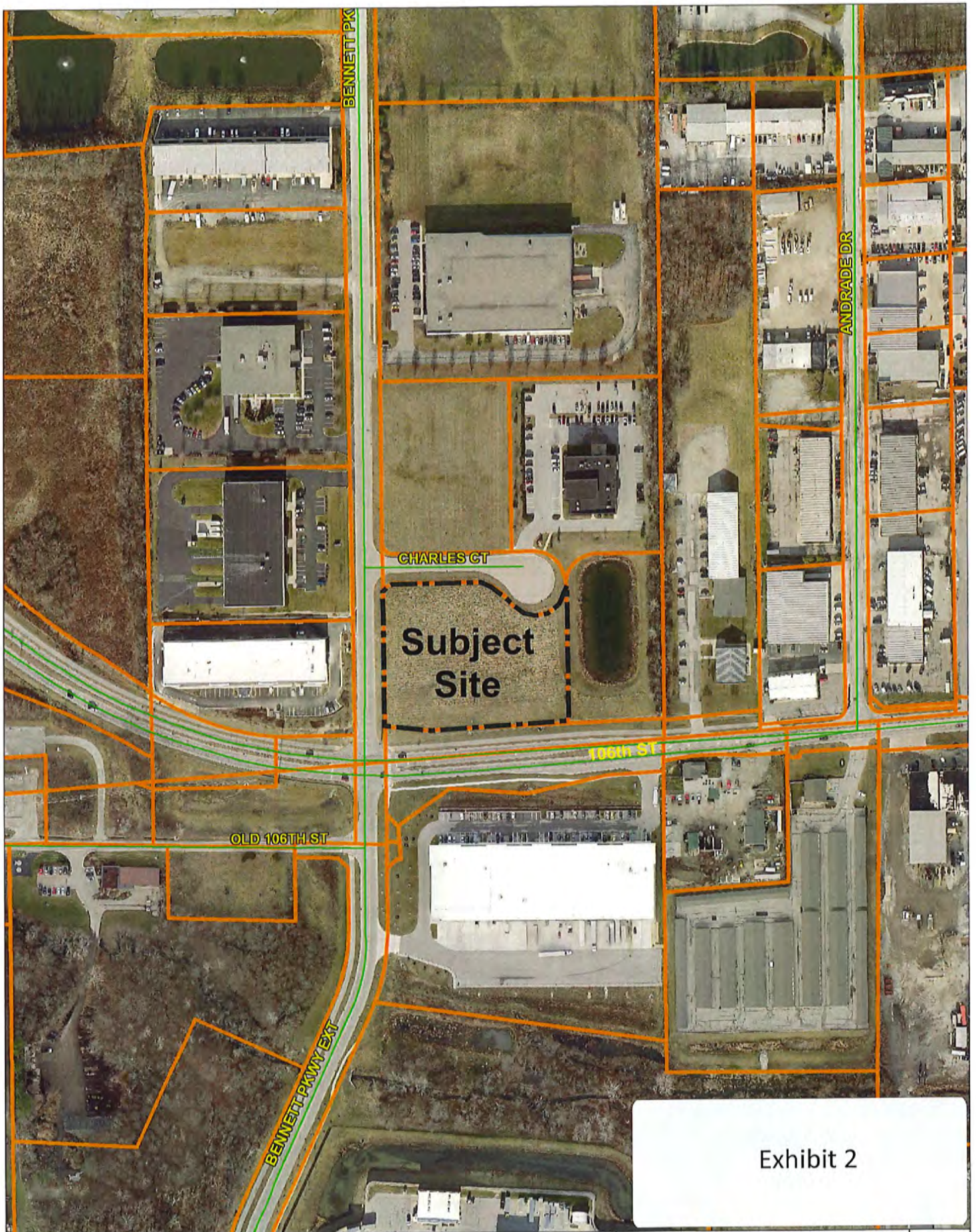
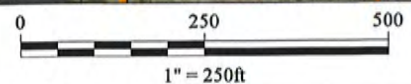


Exhibit 2: Aerial Map





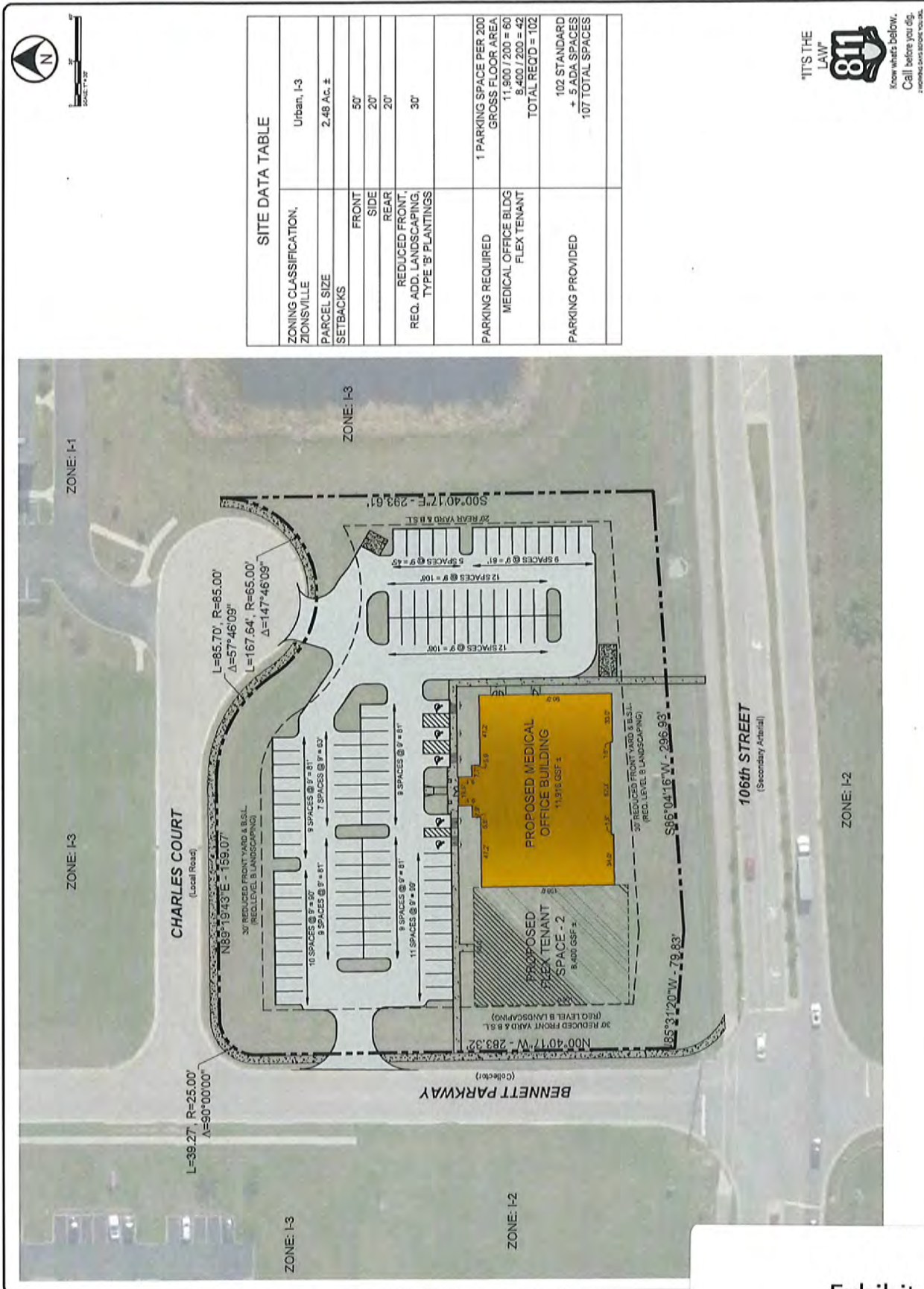


Exhibit 3





PERSPECTIVE 1

Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

10/02/19



Cooler Design



Exhibit 4





PERSPECTIVE 2



## Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

09/30/19



Cooler Design



PERSPECTIVE 3



## Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

09/30/19



Cooler Design





Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

10/01/19



Cooler Design



PERSPECTIVE 4





PERSPECTIVE 5



Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

10/02/2019



ELEVATIONS



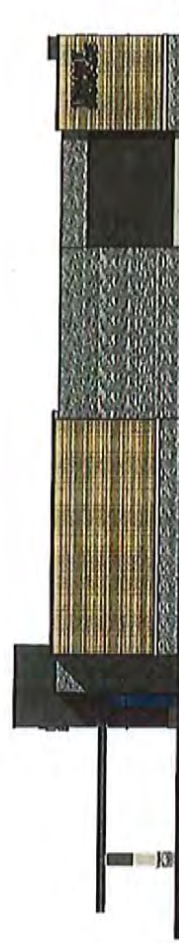
4 - SOUTH  
1/8" = 1'-0"



1 - WEST  
1/8" = 1'-0"



3 - NORTH  
1/8" = 1'-0"



2 - EAST  
1/8" = 1'-0"

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. The grant ( will not) be injurious to the public health, safety, morals, and general welfare of the community because:  
the Petitioner will be improving the site with well-designed structures, consistent with the Town Standards, which does not impede neighboring uses and benefits an as-yet undeveloped lot.
2. The use or value of the area adjacent to the property included in the variance ( will not) be affected in a substantially adverse manner because:  
the use is similar in character to the adjoining uses and will be a well-constructed building.
3. The need for the variance arises from some condition peculiar to the property involved and the condition ( is not) due to the general conditions of the neighborhood because:  
the character and nature of the surrounding area has not been developed consistently with the I-3 heavy industrial zoning.
4. The strict application of the terms of the zoning ordinance ( does ) constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought because:  
Petitioner is seeking a less-intensive use than permitted.
5. The grant ( does not) interfere substantially with the Comprehensive Plan because:  
This project supports, and does not interfere with, the Comprehensive Plan, in light of the development that has occurred in and around the subject property.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**Petition Number:** 2019-34-SE

**Subject Site Address:** 10601 Bennett Parkway

**Petitioner:** Zionsville MOB Investors, LLC

**Representative:** Jeff Jacob, Attorney for Petitioner  
Hackman Hulett LLP

**Request:** Petition for a Special Exception to permit Offices as a Primary Use in the Urban Heavy Industrial Zoning District (I-3).

**Current Land Use:** Vacant Parcel

**Approximate Acreage:** 2.48± acres

**Zoning History:** 2006-27-SP Secondary Plat of Bennett Tech Park (Approved)  
2019-33-UV Use Variance for Clinic as a Primary Use (Pending)  
2019-35-DSV Development Standards Variance for Reduction of Front Yard Setback (Requested by Petitioner to be Withdrawn)

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Proposed Site Plan  
Exhibit 4 – Petitioner's Exhibits - Conceptual Building Elevations  
Exhibit 5 – Petitioner's Proposed Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM



### **PETITION HISTORY**

This petition will receive a public hearing at the November 12, 2019, Board of Zoning Appeals meeting. A related petition for a Special Exception is also scheduled to be heard at the November 12, 2019, Board of Zoning Appeals meeting (2019-34-SE). A Development Standards Variance (2019-35-DSV) for this site had also been filed and docketed for public hearing, but the Petitioner has requested this item be withdrawn.

### **PROPERTY HISTORY & SITE DESCRIPTION**

The subject site is located within the Bennett Technology Park which was approved, via a Secondary Plat, in 2006. The subject site is addressed as 10601 Bennett Parkway and is located on the northeast corner of the intersection of Bennett Parkway and West 106<sup>th</sup> Street. The site is approximately 2.48+/- acres and is not improved. The site is bordered on the south by West 106<sup>th</sup> Street; on the west by Bennett Parkway; on the north by Charles Court; and on the east by a retention pond serving Bennett Technology Park. The site and adjoining parcels to the north and east are zoned Urban Heavy Industrial Zoning District (I-3). Adjoining parcels to the south and west are zoned Urban General Industrial (I-2).

The Petitioner proposes to construct a single-story, commercial building of approximately 20,000 square feet with related parking areas. Vehicular access to the development will be from Bennett Parkway and Charles Court; no curb cut is proposed on 106<sup>th</sup> Street. Pedestrian maneuverability on site will include sidewalks along the Bennett Parkway and Charles Court frontages. Sidewalks are designed to connect the proposed building's main entry, located on the north façade of the building, to the sidewalk along Bennett Parkway and the existing pedestrian path on the north side of 106<sup>th</sup> Street.

### **ANALYSIS**

The proposed building will contain two primary uses: the western third of the building will be occupied by offices (subject of this Special Exception request) with the eastern two-thirds of the building being occupied by a Clinic (subject of an accompanying Use Variance request - see Board of Zoning Appeals Staff Report for Case #2019-33-UV). The term "Office" is not defined by the Zionsville Zoning Ordinance. This use is not permitted as a Primary Use in the I-3 district, but is permitted by the grant of a Special Exception from the Board of Zoning Appeals. Office space is permitted in the I-3 district as an accessory or supportive use to permitted Primary Uses.

The uses along this portion of 106<sup>th</sup> Street and nearby uses within the Bennett Technology Park would not conflict with the proposed Office use, nor would the Office use conflict with surrounding uses. Office use would be permitted on this site as an accessory or supportive use to a permitted Primary Use. With this in mind, Staff is supportive of the requested Special Exception for Offices as a Primary Use at the subject site.

**PROCEDURAL – CONSIDERATION OF A SPECIAL EXCEPTION PETITION SEEKING APPROVAL FOR OFFICES AS A PRIMARY USE IN THE URBAN HEAVY INDUSTRIAL ZONING DISTRICT (I-3)**

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Special Exception requests as provided for by the Zionsville Zoning Ordinance. A Special Exception may be approved only upon written determination that:

- (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;*
- (b) The proposed use will not injure or adversely affect the adjacent area or property values therein; and*
- (c) the proposed use will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.*

Proposed Findings of Fact from the Petitioner are attached for the Board of Zoning Appeal's consideration.

**STAFF RECOMMENDATIONS**

Staff recommends approval of the Special Exception for Offices as a Primary Use within this location included in Docket #2019-34-SE.

**RECOMMENDATION MOTION**

I move that Docket #2019-34-SE Special Exception to permit Offices as a Primary Use at 10601 Bennett Parkway, be (Approved as filed, based upon the findings of fact / Denied / Continued) as presented.



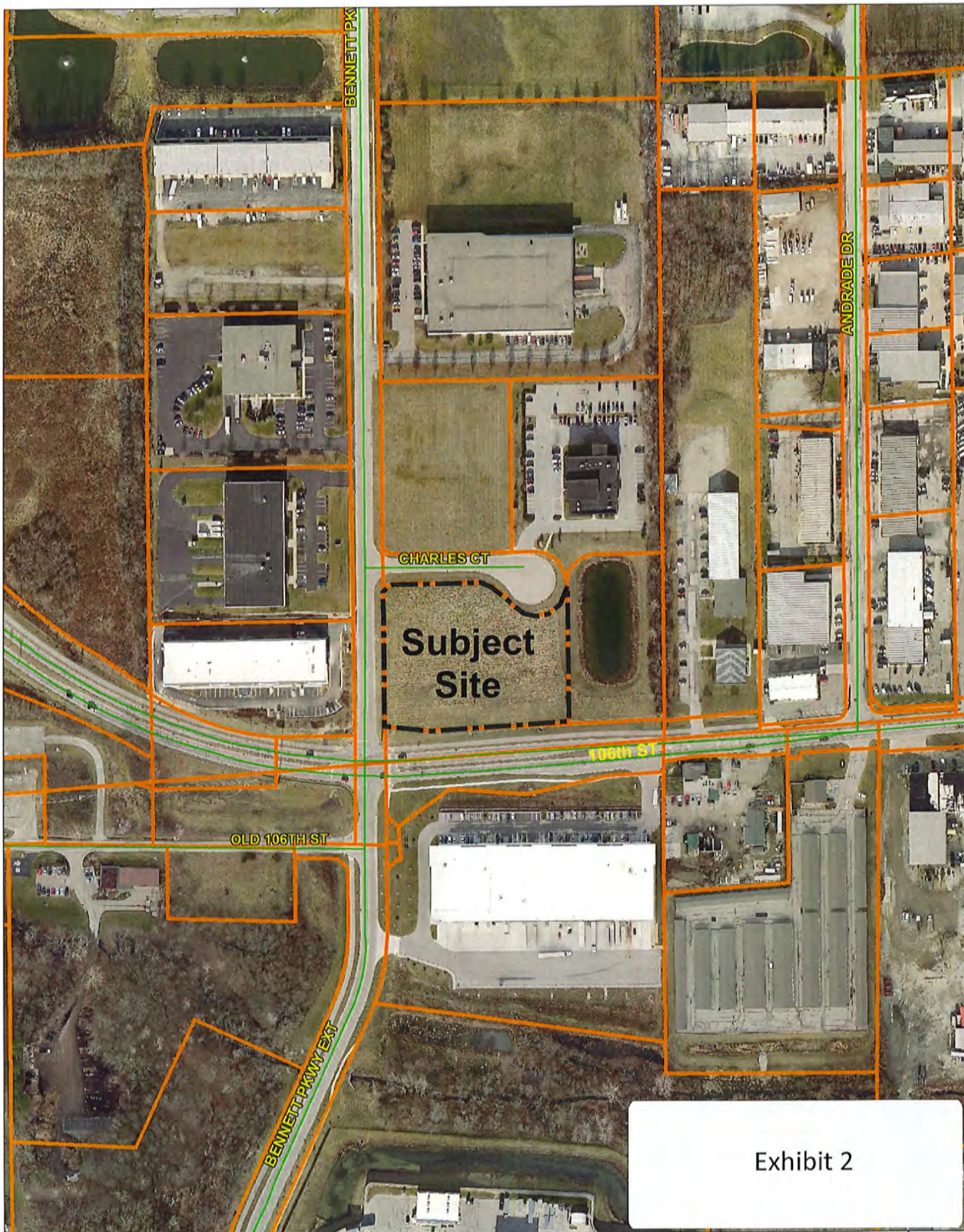
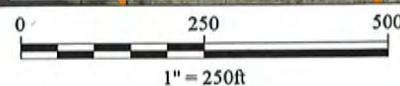
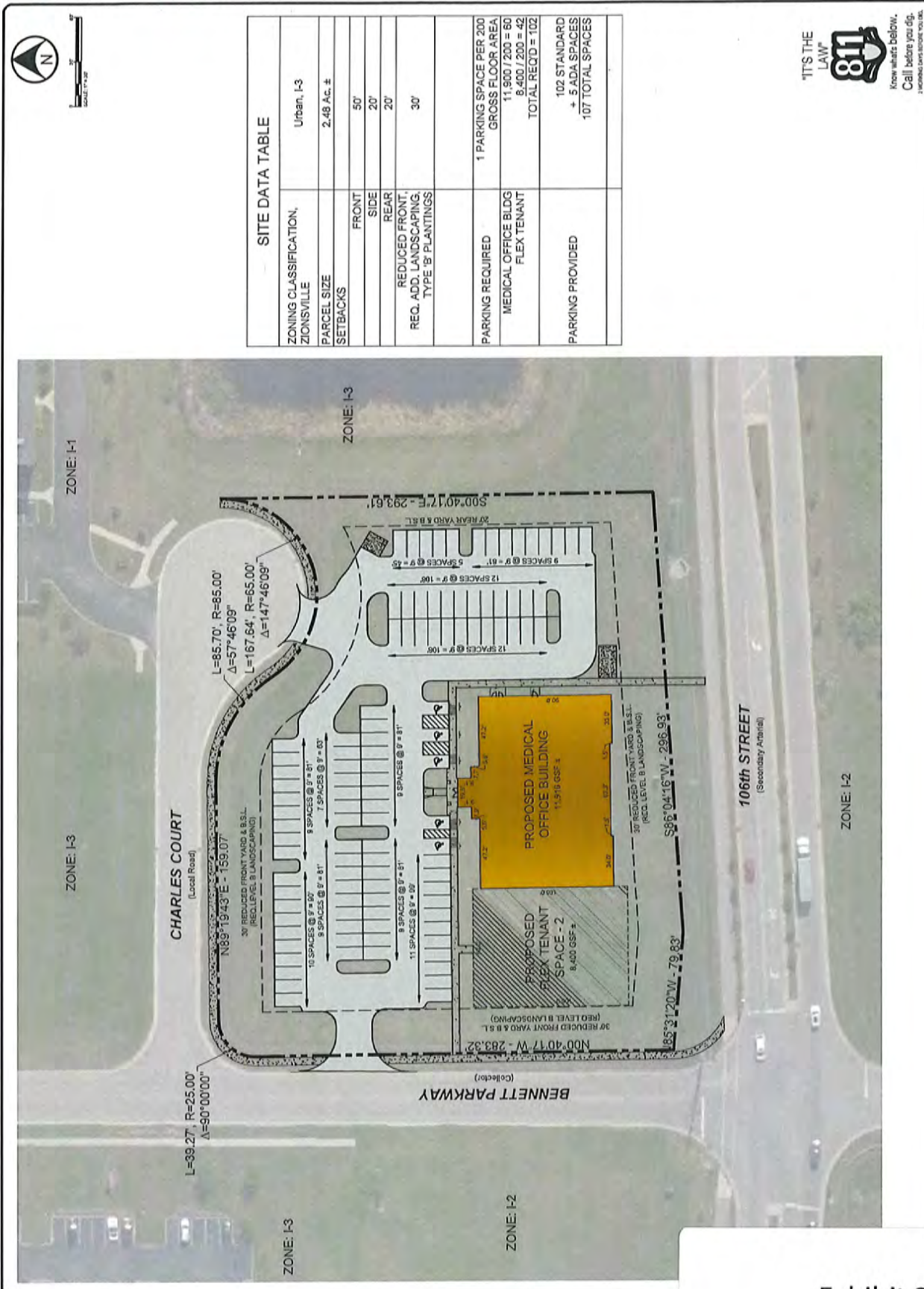


Exhibit 2

Exhibit 2: Aerial Map











PERSPECTIVE 1

Exhibit 4



Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

10/02/19



Cooler Design





## Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

09/30/19



Cooler Design



PERSPECTIVE 2



PERSPECTIVE 3



Zionsville MOB

10601 Bennett Park Way, Zionsville, Indiana 46077

09/30/19



Cooler Design

Exhibit 4





## Zionsville MOB

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PERSPECTIVE 4





PERSPECTIVE 5

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# ELEVATIONS



**Zionsville MOB**

10601 Bennett Park Way, Zionsville, Indiana 46077

10/02/2019



**Cooler Design**



TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA

PETITION FOR SPECIAL EXCEPTION

FINDINGS OF FACT

1. The proposed use ( will not ) be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;  
the Petitioner will be improving the site with well-designed structures, consistent with the Town Standards, which does not impede neighboring uses and benefits an as-yet undeveloped lot.
2. The proposed use ( will not ) injure or adversely affect the adjacent area or property values therein;  
and  
the character and nature of the surrounding area has not developed consistent with the I-3 heavy industrial zoning.
3. The proposed use ( will ) will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.  
This project supports, and does not interfere with, the Comprehensive Plan in light of the development that has occurred in an around the subject property.

DECISION

It is therefore the decision of this body that this SPECIAL EXCEPTION petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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